CONTRACT DOCUMENTS AND TECHNICAL SPECIFICATIONS

STORMWATER
MAINTENANCE & REPAIR SERVICES
RFP 2015- 0022

Prepared by

The Town of Hilton Head Island

Beaufort County, South Carolina

July 20, 2015

TOWN OF HILTON HEAD ISLAND

STORMWATER MAINTENANCE & REPAIR SERVICES
RFQ 2015-0022

CONTRACT DOCUMENTS

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TOWN OF HILTON HEAD ISLAND
STORMWATER MAINTENANCE & REPAIR SERVICES

REQUEST FOR PROPOSALS

The Town of Hilton Head Island is soliciting sealed proposals from qualified Contractors to provide Stormwater Services to perform construction, maintenance and repair of the stormwater infrastructure within the limits of the Town of Hilton Head Island, South Carolina. This will be an indefinite delivery indefinite quantity (IDIQ) Contract with no guaranteed minimum or maximum dollar amount for the Contract.

The Town may award a Contract, or Contracts, to the most qualified respondent(s) to perform these services on an as required basis for an initial period of one year with the option to extend the Contract four additional one-year terms. The Town will not be obligated to quantities beyond actual requirements reflected in individual Job Orders. There is no minimum or maximum amount of work guaranteed throughout the life of the Contract.

Individual projects will vary in size, location, value, and duration. Each project will be constructed using a project specific Job Order. The unit quantities shown in the Unit Cost Schedule are estimates provided for proposal comparison purposes and will be utilized in determining the lowest responsive/responsible Offeror(s). The Offeror shall provide unit costs for all of the items listed in the Unit Cost Schedule. These unit costs shall be the basis for Contract unit prices and will be used in the development of project Job Orders. The Town does not warrant that the actual quantities of work will correspond with those estimates. The Town reserves the right to increase or decrease any of the quantities shown without adjusting the unit Contract prices by Change Order. No individual Job Order will exceed $100,000.

The Contract Documents shall be used as the primary basis for developing proposals. All work will be performed in accordance with the Contract Documents and specifications.

Sealed proposals are due by **2:00 PM on September 3, 2015**. Sealed proposals should be hand carried or delivered by traceable means to:

Kelli Uyesugi
Stormwater Construction Administrator
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

All proposals must be clearly marked on the outside with the following: "**RFP 2015-0022 STORMWATER MAINTENANCE & REPAIR SERVICES".** Only sealed proposals received on or before the time and date stated above will be considered. Proposals will be opened at 2:05 PM. The only information that will be made publically available at that time is the formal list of proposals received.

A mandatory pre-proposal conference will be held at the Town of Hilton Head Island, South Carolina Town Hall at **2:30 PM on August 6, 2015** in Conference Room 4. Proposals will not be considered from those Contractors who do not attend the mandatory pre-proposal conference. Project Contract Documents will be available for review at this conference. All Offerors may submit questions or requests for clarification in writing to Kelli Uyesugi no later than **4:30 PM, August 20, 2015**. After that date, no more questions or requests will be accepted.

Prior to commencement of work, the selected Contractor and any associated Subcontractors will be required to obtain a Town of Hilton Head Island business license to operate within Town limits. Proposers shall be licensed to perform the work described herein as required by Section 10-1-10 et seq., Code of the Town of Hilton Head Island, South Carolina, 1983 (as amended).

The requirements of The Code Of Laws Of South Carolina, "An Act To Regulate The Practice Of General And Mechanical Contracting In South Carolina (1997)", Chapter 11, Title 40, Section 40-11-S through Section 40-11-430 and The Rules And Regulations Of The South Carolina Licensing Board For Contractors, Chapter 29, Articles 1, 2, 3, 4, 29-1 through 29-19, will be strictly enforced. All Contractors and Subcontractors must be properly licensed in the Group, Classification, and/or Sub Classification as required by the South Carolina Licensing Board for Contractors. Proposals will not be accepted from improperly licensed or unlicensed Contractors and/or Subcontractors.

Proposals must be signed by an official authorized to bind the Offeror, and shall contain a statement to the effect that the proposal is firm for a period of at least 90 days from the date of opening.

The Town reserves the right to accept or reject any or all offers received as a result of this request or to negotiate with all qualified Offerors or to cancel in part or in its entirety this solicitation if it is in the best interest of the Town to do so. The Town further reserves the right to waive any technicalities and formalities at its sole discretion.

This solicitation does not commit the Town to award a Contract or to pay for any costs incurred in the preparation of your proposal or to procure or Contract for any articles of goods or services.

The Town Manager may terminate this Contract in whole or part at any time for the convenience of the Town. If the Contract is terminated for convenience, the Town will pay the Contractor for costs incurred for services performed at the time of termination.

The Town does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or in the provision of goods and services.

Any Offeror who qualifies for consideration under the Town's Local Vendor Preference Program should include a copy of their certification form with their bid. Should you have any questions about this preference, please contact Tom Fultz at (843) 341-4600 or log on to the Town's Website at www.hiltonheadislandsc.gov.

Copies of the project Contract Documents may be inspected at the Town of Hilton Head Island Town Hall, One Town Center Court, Hilton Head Island, SC 29928, Monday through Friday

8AM to 4:30PM. Contract Documents may also be found on the Town's website http://www.hiltonheadislandsc.gov/government/procurement/. Reference is made to said documents for full particulars.

For additional information concerning this solicitation, please contact Kelli Uyesugi at kelliu@hiltonheadislandsc.gov or (843) 341-4602.

INSTRUCTIONS TO OFFERORS

1. INTENTION: It is intended that the Instructions to Offerors, Special Conditions, General Conditions, Special Provisions, and Job Order Procedures shall cover the complete work to which they relate. It is the Contractor's responsibility to review the specifications prior to bidding to ascertain the extent of work.

2. DESCRIPTION OF THE WORK: This is an indefinite delivery indefinite quantity Contract for performing construction, maintenance and repair of stormwater infrastructure including, but not limited to, pipes, drainage structures, open channels, stormwater management facilities, and lagoons within the limits of the Town of Hilton Head Island, South Carolina. The Contractor shall be able to perform construction activities including, but not limited to, earthwork, grading, channel cleaning, trimming vegetation, asphalt pavements, concrete curb, gutters, driveways, sidewalks, and drainage structures, traffic control, pavement markings, guardrails, pipe removal and installation for various materials (e.g. RCP, CMP, HDPE, PVC, etc.), masonry structures, retaining walls, fences, erosion and sediment controls, protection of all utilities, relocation and installation of wet utilities, landscaping, and/or other related construction activities. The work may take place within State, County, or Town road rights-of-way, easements, or within specific areas delineated by a Right of Entry. This may also include work in such areas as planned unit developments, golf courses, and on government, commercial, or residential properties. Much of the infrastructure maintenance and repairs will be involving metal or concrete pipe and structures, many of which connect lagoon systems or are in the water table. All road and pathway drainage work will require repaving of repair areas. Disturbed channel and lagoon banks will be maintained and stabilized, including brush and tree removal.

   The majority of work that will be completed under this Contract will be smaller maintenance and repair work for stormwater infrastructure, which may typically involve sinkhole repair, shallow (< 6' deep) and smaller storm pipe installation/replacement (< 36" diameter), installation/replacement/repair of drainage inlets, drainage ditch excavation, asphalt/concrete patching, etc. Work that may be completed under this Contract includes larger construction projects and may typically involve larger storm pipe installation/replacement (≥ 36" diameter), maintenance/repair/replacement of deeper storm drain systems (≥ 6' deep), lagoon dam repair, and may require the use of temporary shoring walls, trench boxes, diving services for temporary pipe plugs, well-point systems, etc. The Contractors have the ability to state their preference in the type of work they are interested in performing under this Contract (i.e. smaller projects, larger projects, or both) by completing the Proposal Questionnaire. However, by choosing a preference, this does not exclude the Contractor from the opportunity to perform any particular Job Order or type of work, but it will allow the Town the ability to assign work appropriately based on Contractor preference.

   There shall be no guaranteed minimum or maximum limitations on the services required up to $100,000 per project. The Contract will require the Contractor to provide a Designated Representative (i.e. Contract project manager) and the ability to work on multiple construction projects simultaneously. The primary Contractor must perform a majority of the

work under this Contract; Subcontractors may not perform more than 50% of the total annual work contracted dollar amount.

The Town anticipates grouping smaller planned projects together to minimize mobilization for the Contractor, as well as, allowing the Contractor longer performance periods to complete these grouped projects.

The Town may divide larger projects into smaller scopes of work, if it is determined to be advantageous to the Town to do so (e.g. the Town issues a Job Order to one Contractor for major underground stormwater repairs, but issues a separate second Job Order to a different Contractor, or utilizes proper procurement methods, for the paving portion of the project). This is intended to alleviate any Subcontractor coordination issues or delays for the primary Job Order. The Contractor(s) must have the ability to perform, or subcontract, all work associated with the line items listed in the Unit Cost Schedule.

3. GENERAL PROVISIONS: The work on this Contract is to be performed under the South Carolina Department of Transportation's Standard Specifications for Highway Construction, current edition, and the Supplemental Technical Specifications; the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD); the Project specific plans and the Contract Document Special Provisions. The Contractor shall show satisfactory evidence of stormwater construction experience and qualifications.

4. INDUSTRY STANDARDS: General Applicability of Standards: Applicable standards of construction industry have the same force and effect (and are made a part of Contract Documents by reference) as if copied directly into Contract Documents, or as if published copies were bound herewith. Reference Standards (referenced directly in Contract Documents or by governing regulations) have precedence over non-referenced standards which are recognized in industry for applicability to work. Non-referenced Standards recognized in the construction industry are hereby defined, except as otherwise limited in Contract Documents, to have direct applicability to the work, and will be so enforced for performance of the work. The following abbreviations are used frequently throughout these specifications:

   AASHTO - American Association of State Highway and Transportation Officials
   ANSI - American National Standards Institute
   ASTM - American Society for Testing and Materials
   FS - Federal Specification (General Service Administration)
   SCDOT - South Carolina Department of Transportation
   MUTCD - Manual on Uniform Traffic Control Devices for Streets and Highways

5. PROPOSAL FORMS: All proposals must be made upon the Proposal Forms hereto annexed, and shall state the amount proposed for each item as shown, and all costs and proposals must be inclusive of all materials, labor and work called for in the specifications.

6. RIGHT TO REJECT AND NEGOTIATE OFFERS: The Town reserves the right to reject any or all proposals and to waive formalities. No proposals will be received after the time set

for opening proposals. Any unauthorized conditions, limitations, or provisions attached to the proposal, except as provided herein, will render it informal and may cause its rejection. Any Offeror may withdraw their proposal, either personally or by written request at any time prior to the scheduled closing time for receipt of proposals. Discussions may be conducted with responsible Offerors who submit proposals determined to be susceptible of being selected for award, for the purpose of clarification and to ensure a full understanding of and responsiveness to the solicitation requirements. Negotiations may also be conducted with any responsive Offeror for the purpose of ensuring fair pricing of services required in the solicitation.

7. ACCEPTANCE OF PROPOSALS: Proposals may not be revoked or withdrawn after the time set for the opening, but shall remain open for acceptance for a period of ninety (90) calendar days following that time.

8. PROPOSALS: Proposals are to be enclosed in a sealed envelope addressed as follows:

Kelli D. Uyesugi, EIT
Stormwater Construction Administrator
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

and clearly labeled:

"RFP 2015-0022 Stormwater Maintenance & Repair Services"

Proposals must be signed by an official of your company authorized to bind the Offeror, and shall contain a statement that the proposal is good for a period of at least ninety (90) days from the date of proposal opening.

9. PROPOSAL SELECTION CRITERIA: The Contract will be awarded, if it is awarded, to the Offeror(s) with the most advantageous proposal(s). The Town shall determine the most advantageous proposal(s), based on the following criteria:

60%	Unit Cost Schedule
25%	References and Experience with Similar Prior Stormwater Construction Projects
10%	Qualifications of Key Personnel and Resources Available to Meet Contract Requirements (e.g. Staff, Equipment, Bond Capacity)
5%	Designated Representative and Availability

The Contractor shall provide the following information for evaluation:

Unit Cost Schedule:
The Contractor shall complete the Unit Cost Schedule as provided in this document. All items must include a Unit Price, Total Item Cost based on estimated quantity, and Total Proposal Cost. Only the provided Unit Cost Schedule Form will be accepted. The Contactor

shall not delete or modify any line items. Any modifications, omissions or errors with regard to the Unit Cost Schedule, or failure to follow instructions may cause your proposal to be deemed non-responsive.

<u>References, Experience with Similar Prior Stormwater Construction Projects, Qualifications of Key Personnel, Resources Available to Meet Contract Requirements:</u>
The Contractor shall complete the accompanying Proposal Questionnaire and Reference forms in a manner that provides a detailed, comprehensive history of its work experience with similar types of projects, sufficient qualifications of Key Personnel, and equipment to perform Contract requirement, including the following information:

- Minimum of three (3) references that have contracted with the Contractor within the past three years for similar stormwater construction work. Minimum of three (3) references are required for similar work done in the past three years for each Subcontractor that will be utilized under this Contract;
- List at least five pertinent projects of similar stormwater construction work as a Primary Contractor, including (client information, project completion date, and location):
    - Name of project, type of work and project description;
    - Contract amount for each project;
    - State whether the Contractor was the Primary Contractor or Subcontractor for the project;
    - Project Contact Information (name, organization/company, phone number, e-mail) for each project (please confirm that reference contact information is valid and up to date);
- List all Subcontractors to be utilized in this Contract;
- Resumes and qualifications of all Key Personnel (i.e. Officer in Charge, Designated Representative, Project Manager, and Job Superintendent) to be assigned to this Contract;
- Workload availability of Designated Representative;
- List all operational equipment owned or leased to be utilized in this Contract;
- Whether the Offeror involved:
    a) Maintains a permanent place of business;
    b) Has adequate plant equipment to do the work properly and expeditiously;
    c) Has suitable financial status to meet obligations incident to the work; and
    d) Has appropriate technical experience.

10. <u>INTERPRETATION OF SPECIFICATIONS</u>: If any person contemplating submitting a proposal for the proposed Contract is in doubt as to the true meaning of any part of the specifications or other proposed Contract Documents, he may submit to Kelli Uyesugi, Stormwater Construction Administrator, a written request no later than **4:30 PM August 20, 2015** for an interpretation thereof. The person submitting the request will be responsible for its prompt delivery. Any interpretation of the proposed documents will be made only by Addendum duly issued, and a copy of such Addendum will be mailed or delivered to each person receiving a set of such documents.

11. SUBCONTRACTORS: The Contractor shall complete the Proposal Questionnaire and list any Subcontractors that will be utilized in support of this Contract, if applicable. The Contractor shall provide the Subcontractor(s) company name, address, phone, email, trade, years in business, and number of projects worked on together. Subcontractors must be properly licensed in the Group, Classification, and/or Sub Classification as required by the South Carolina Licensing Board for Contractors. Proposals will not be accepted from improperly licensed or unlicensed Contractors and/or Subcontractors.

    All non-contractual subcontracted work (i.e. items not listed in the Unit Cost Schedule) will be paid for by the Town at the Subcontractor's Cost of Work plus a fee, according to the Exhibit A- General Conditions. Any proposed subcontracted work must be submitted to the Town via an estimate provided by the Subcontractor prior to the subcontracted work being approved in writing by the Town. The Subcontractor costs in the estimate must be inclusive of all direct and indirect costs associated with completing the work, including, but not limited to, mobilization, equipment, labor, and fuel costs.

12. OFFEROR'S UNDERSTANDING: Reflected in this document is the Contract format the Town will utilize for this Proposal. If the Contractor cannot agree to the terms and conditions reflected in the sample Contract, the Contractor shall not submit a proposal. By signing this Proposal, the Contractor certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agrees to provide to the Town of Hilton Head Island upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable both to Contractor and its Subcontractors or sub-subcontractors; or (b) that Contractor and its Subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." Contractor agrees to include in any contracts with its Subcontractors language requiring its Subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14.

13. CONTRACT: The Contract period will be a one-year term with the option to renew four additional one-year terms, totaling five years.

14. CONTRACT COMPLETION TIME: The time for completion of the work under this Contract will be Job Order specific based on the date specified in written notice to the Contractor to proceed with the work. Liquidated damages will be Job Order specific and may be assessed for each day required to complete the work past the Substantial Completion deadline.

15. CONTRACT SECURITY: There is no bid bond required for this solicitation.

16. GENERAL CONDITIONS: The Final Contract Documents will include the "Standard

General Conditions of the Construction Contract" EJCDC C-700 (2007 Edition) prepared by the National Society of Professional Engineers and amended by the Town of Hilton Head Island – Exhibit A.

17. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE: The Contractor shall not commence work under this agreement until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Town, nor shall the Contract allow any Subcontractor to commence work on his subcontract until the insurance required of the Subcontractor has been so obtained and accepted.

    a) Employer's Liability Insurance: The Contractor shall take out and maintain during the life of the Contract the South Carolina statutory Workmen's Compensation and Employer's Liability Insurance for all of his employees to be engaged in work on the project under the Contract and, in case any such work is sublet, the Contractor should require the Subcontractor similarly to provide Workmen's Compensation and Employer's Liability Insurance for all the latter's employees to be engaged in such work.

    b) General Liability, Bodily Injury and Property Damage Liability Insurance: The Contractor shall take out and maintain during the life of the Contract a General Liability Insurance policy for an amount not less than One Million dollars ($1,000,000.00.) The policy shall include the Bodily Injury Liability and Property Damage Liability Insurance to protect him and any Subcontractor performing work covered by the Contract from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under the Contract, whether such operations be by himself or by a Subcontractor or by anyone directly or indirectly employed by either of them and the amount of such insurance should be not less than:

    Bodily Injury Liability Insurance, in an amount not less than $1,000,000.00 for injuries, including wrongful death to any one person, and subject to the same limit for each person in an amount not less than $500,000.00 on account of one accident.

    Property Damage Insurance in an amount not less than $350,000.00 for damages on account of any one accident, and in an amount not less than $1,000,000.00 for damages on account of all accidents.

    c) Proof of Carriage of Insurance: Prior to commencing work hereunder, the Contractor, at his expense, shall furnish a current insurance certificate showing the certificate holder as Town of Hilton Head Island, One Town Center Court, Hilton Head Island, SC 29928, Attention: Kelli Uyesugi, and with a special notation naming The Town of Hilton Head Island as an additional insured on the liability coverage. The Contractor shall furnish the Town with certificates showing the type, amount, class of operations, effective dates and date of expiration of policies. Such certificates shall contain a clause to the effect that the policy shall not be canceled or reduced, restricted, or limited until thirty (30) days after the Town has received written notice, as evidenced by return receipt of registered or certified letter. Certificates of Insurance shall contain transcript from the proper office of the insurer, the location, and the operations to which

the insurance applies, the expiration date, and the above mentioned notice of cancellation clause.

Contractor shall either:

(a) require each of his Subcontractors to procure and maintain during the life of his subcontract, Subcontractor Comprehensive General Liability, Automobile Liability and Property Damage Liability Insurance of the type and in the same amounts as specified in this Contract; or
(b) insure the activities of his Subcontractors in his own policy.

Certificates of Insurance must be filed at time of proposal opening through the Town on form provided in specifications or on AIA Document G705, November, 1978 Edition by an insurer authorized to do business in the State of South Carolina by the South Carolina Insurance Commission. All blanks and questions on Certification must be filled out completely. Incomplete or inadequate Certificate will be returned to Contractor as unsatisfactory and commencement of his work will be delayed until satisfactory Certificate is submitted. Such delay will not warrant extension of Contract time.

18. PERFORMANCE AND PAYMENT BONDS: No Performance or Payment bonds will be required for this Contract as no Job Order will exceed $100,000.

19. LAWS AND REGULATIONS: The Contractor shall comply with local, County, State and Federal laws applicable to the work.

    The requirements of The Code Of Laws Of South Carolina, "An Act To Regulate The Practice Of General And Mechanical Contracting In South Carolina (1997)", Chapter 11, Title 40, Section 40-11-S through Section 40-11-430 and The Rules And Regulations of the South Carolina Licensing Board for Contractors, Chapter 29, Articles 1, 2, 3, 4, 29-1 through 29-19, will be strictly enforced. All Contractors and Subcontractors must be properly licensed in the Group, Classification, and/or Sub Classification as required by the South Carolina Licensing Board for Contractors. Proposals will not be accepted from improperly licensed or unlicensed Contractors and/or Subcontractors.

20. SAFETY AND HEALTH REGULATIONS: The Contractor shall comply with the Department of Labor Safety and Health Regulations for Construction promulgated under the Occupational Safety and Health Act of 1970 (PL 91-596) and under Section 107 of the Contract Work and Safety Standards Act (PL 91-54). The regulations are administered by the Department of Labor and the Contractor shall allow access to project to personnel from that Department.

21. TERMINATION OF CONTRACT: If the Town is made to stop construction of the work because of an order from a Court or State Department, the Contract may be terminated. Payment will be made for work completed and a pro-ration of the work underway, and for the overhead and profit of the completed work and work underway. Payment will not be made for anticipated profit and overhead on work not completed or underway.

22. PERMITS: Town, State and Federal permits may apply to the work and will be obtained by the Town of Hilton Head Island and made part of the Job Order to which it pertains.

23. CONTRACTOR'S AFFIDAVIT: Upon completion of a Job Order and prior to final payment, the Contractor shall furnish to the Town a Contractor's Affidavit to the effect that all bills for labor, materials and services in connection with said Contract have been paid in full.

TOWN OF HILTON HEAD ISLAND
PROPOSAL for CONSTRUCTION PROJECT

Stormwater Maintenance & Repair Services

NOTE: In order for the Proposal to be considered, it is necessary for an authorized individual of the firm, and on behalf of the firm, to furnish the information requested below.

Date Prepared: _____

Submitted To: Town of Hilton Head Island, ATTN: Kelli Uyesugi, Engineering Division,
One Town Center Court, Hilton Head Island, SC 29928.

Submitted By:

_____
(Complete Firm Name: Must be the same as the name that will appear on Proposals)

_____
(Complete Street Address and Suite Number, if applicable)

_____
(P. O. Box Number, if applicable) (Zip Code for P. O. Box Number)

_____
(City) (County) (State) (Zip Code for Street Address)

Telephone Number: (_____) _____

Fax Number: (_____) _____

Web Site Address: _____

E-mail Address: _____

Federal Employer Identification Number: _____

South Carolina General Contractor Information:

License Number: _____

License Type: _____

Classification(s): _____

PROPOSAL QUESTIONNAIRE

1. Indicate below the experience of the Personnel to be assigned to this Contract; Key Personnel include the Officer in Charge, Designated Representative, Project Manager, and Job Superintendent. Please specify if one person will fulfill more than one key role. Key Personnel shall have at least three years of experience and knowledge of these disciplines: general flatwork construction, stormwater pipe installation and repair, grading, concrete structures, and concrete and asphaltic paving. In addition to this form, please include resumes for all Key Personnel assigned to this Contract. Please ensure enough personnel are listed below to verify your company is capable of working on multiple projects simultaneously.

Personnel						
Position on this Contract	Individual's Name	Years Employed By The Firm	Years Experience			
			Drainage	Grading	Concrete	Paving
*Officer in Charge						
Office Manager						
*Designated Representative						
*Project Manager(s)						
Estimator						
*Superintendent(s)						
Foreman (Pipe)						
Foreman (Earthwork)						
Foreman (Concrete)						
Foreman (Paving)						

Equipment Operator(s)						
Laborer						

*Designates Key Personnel

2. Name of Designated Representative for this Contract: _____

   Office Address: _____

   Office Number: (_____) _____ Mobile: (_____) _____

   E-Mail: _____

   Total Workload Availability of Designated Representative for this Contract: _____%

   ***The Designated Representative will be the only point of contact between the Contractor and the Town, and must have sufficient availability to meet onsite and correspond as necessary for the duration of this Contract. The Designated Representative will submit all invoices and supporting documentation. They will also be responsible for resolving all conflicts and answering any questions the Town may have. If the Designated Representative changes, the Town must be notified in writing.**

3. Preference of Type of Contract Work (Select One):

   _____Smaller Maintenance & Repair Work

   _____Larger Construction Projects

   _____Both Small & Large Projects

   *Please state the preference in the type of work the Firm is interested in performing under this Contract (i.e. smaller projects, larger projects, or both). However, by choosing a preference, this does not exclude the Contractor from the opportunity to perform any particular Job Order or type of work, but it will allow the Town the ability to assign work appropriately based on Contractor preference. The majority of work that will be completed under this Contract will be smaller maintenance and repair work for stormwater infrastructure, which may typically involve sinkhole repair, shallow (< 6' deep) and smaller storm pipe installation/replacement (< 36" diameter), installation/replacement/repair of drainage inlets, drainage ditch excavation, asphalt/concrete patching, etc. Work that may be completed under this Contract includes larger construction projects and may typically

involve larger storm pipe installation/replacement (≥ 36" diameter), maintenance/repair/replacement of deeper storm drain systems (≥ 6' deep), lagoon dam repair, and may require the use of temporary shoring walls, trench boxes, diving services for temporary pipe plugs, well-point systems, etc.

4. Provide a list of Subcontractors intended to be used for this Contract. The Town is aware that the Subcontractors may change throughout the course of the Contract. Please be aware that all Subcontractors utilized for this Contract must be approved in writing by the Town prior to utilization.

Contract Subcontractors				
Company Name, Phone Number, Email	Trade / Specialty	Office Address	Years in Business under this name	Number of Projects worked on together

5. List at least 5 similar projects (i.e. stormwater maintenance, repair, construction, etc.) the firm has completed in the past **5** years, as a Primary Contractor only. Similar stormwater construction projects that were completed by the Contractor acting as the Subcontractor can be listed, but must be in addition to the 5 minimum projects required to be listed as the Contractor acting as the Primary Contractor. Please designate which projects were completed by the Contractor as either the Primary or Subcontractor. If the Contractor has done any similar work for the Town, the project(s) must be listed below with the current contact.

Similar Stormwater Work Experience				
Contract Owner, Current Contact Name, Phone Number, and E-mail	Contract Amount	Date Completed	Primary or Subcontractor (P/S)	Name of Project / Type of Construction Work / Description of Project
1.)				
2.)				
3.)				
4.)				

5.)				
6.)				
7.)				
8.)				
9.)				
10.)				

6. How many years has the firm been in business under the present name? _____

7. How is the firm presently organized? (i.e. Corporation, Company, Partnership, Sole Proprietorship, etc.) _____

8. Date of Organization: _____

9. Organized under the Laws of which State? _____

10. Date Commenced Business: _____

11. If the firm is a corporation, is it registered with the Secretary of State, to do business in South Carolina? _____(Y/N). If yes, give date of Certificate of Existence or Authority.

_____

12. If the firm is a corporation not organized under the laws of South Carolina, provide the complete name and address of its Registered Agent in South Carolina.

_____

_____

_____

13. List the present officers of the firm and their titles:

_____

_____

_____

14. Has any officer or partner of the firm ever been an officer or partner of some other firm that failed to complete a construction contract? _____ (Y/N). If yes, give name of individual, other firm, and name of owner of project, location, type of project, and the reason for the failure to complete such project.

_____

_____

_____

15. Has the firm, its parent or subsidiary, including owners, corporate officers or stockholders, either collectively or individually, ever been suspended, disqualified, or debarred from doing business with any Municipality, State or the Federal Government? _____(Y/N). If yes, provide complete details, including the agency and relevant circumstance - when, where and why.

_____

_____

_____

16. Have you or any officer, partner, or employee(s) of the firm been suspended, disqualified, or debarred from doing business by South Carolina, or any other State or the Federal Government? _____ (Y/N). If yes, provide complete details, including the agency and relevant circumstance - when, where and why.

_____

_____

_____

17. Have you or any of the individuals or entities referred to above, in the past six years, been indicted, pled guilty, pled *nolo contendere*, or been convicted of any antitrust violation for any act prohibited by State or Federal law committed in any jurisdiction in the United States involving fraud, collusion, conspiracy with respect to bidding on public contracts? _____(Y/N). If yes, give complete details.

_____

_____

_____

18. Have you or any of the individuals or entities referred to above, in the past six years, been indicted, pled guilty, pled *nolo contendere*, or been convicted of embezzlement, theft, forgery, bribery, receiving stolen property, or any other offense indicating a lack of business integrity, or business honesty which seriously and directly affects the question of present responsibility as a contractor in any jurisdiction in the United States? _____(Y/N). If yes, give complete details.

_____

_____

_____

19. Are you under the protection of any Bankruptcy Court, or does the firm have pending any Petition in any Bankruptcy Court, or has there been an assignment for the benefit of any creditors? _____ (Y/N). If yes, give complete details.

_____

_____

_____

20. Has the firm, its subsidiaries, affiliates or parent companies ever defaulted on a contract with any Local, State or Federal Government? _____ (Y/N). If yes, give complete details.

_____

_____

_____

21. List any Officers, Directors, Bid Estimators and any other individual(s) and their position, which are authorized to submit bids on behalf of the firm.

_____

_____

_____

22. List the firm's subsidiaries, affiliates and parent companies.

_____

_____

_____

23. Provide the names of the individuals or companies which have a financial interest of at least five (5%) percent in the firm, and reflect the amount of that interest of each. If another company owns the firm, list its officers and directors.

_____

_____

_____

24. Name of Surety Company: _____

Surety Address: _____

Agency Name: _____

Agency Address: _____

City: _____ State: _____ Zip Code: _____

Agency Phone Number: (_____) _____

25. Provide a list of the operational equipment possessed by the firm (both owned and leased) to be utilized in this Contract.

26. The individuals listed below are authorized to approve, sign and/or execute on the firm's behalf, the following documents:

Document Code No.: 1 - Organization's Statement of Experience and Equipment.
2 - Bid Proposals, Contracts and Bonds.
3 - Change Order(s)/Supplemental Agreement(s)
4 - Force Account Agreement(s)
5 – Job Order(s) [Designated Representative must be authorized to sign]

NAME	TITLE	DOCUMENT CODE NO.

If any changes are made to the list above after the preparation date of this Proposal Questionnaire, it SHALL be the sole responsibility of the Contractor to submit another original updated Certified document, advising of such changes, to the office to which this Proposal Questionnaire was submitted.

AFFIDAVIT

_____ BEING DULY SWORN DEPOSES AND SAYS THAT HE/SHE IS AUTHORIZED TO EXECUTE THIS AFFIDAVIT FOR AND ON BEHALF OF THE APPLICANT FIRM, AND THE ANSWERS TO THE FOREGOING QUESTIONS AND ALL STATEMENTS HEREIN CONTAINED ARE TRUE AND CORRECT TO THE BEST OF HIS/HER KNOWLDEDGE.

Sworn and subscribed to before me on this _____ day of

_____, _____

_____
(Notary Public)
(Not an Officer of the firm)

_____
(Name of Applicant)

_____
(Authorized Signature)

_____
(Print or Type Name)

_____
(Title)

AFFIX
CORPORATE
SEAL
HERE

NOTICE: THE TOWN MUST BE NOTIFIED OF ANY SIGNIFCANT CHANGE IN THE INFORMATION FURNISHED IN THIS QUESTIONNAIRE WITHIN FIFTEEN (15) DAYS OF THE OCCURRENCE OF SUCH CHANGE.

PROPOSAL DOCUMENTS

The Contractor shall complete all of the Proposal Documents included as part of this section. All Proposal Documents shall be part of the Proposal and shall include the following:

1. Proposal Transmittal
2. Unit Cost Schedule (Exhibit D)
3. Certificate of License
4. Certificate of Insurance
5. Collusion Statement and Professional Liability/Performance Statement
6. References

PROPOSAL TRANSMITTAL

TO: **Town of Hilton Head Island, South Carolina**

ATTENTION: **Kelli Uyesugi, Stormwater Construction Administrator**

PROJECT: **Stormwater Maintenance & Repair Services**

DATE: _____

FROM: _____ (Company Name)

_____ (Address)

_____

_____ (Telephone No.)

Having carefully examined the specifications and documents contained within this solicitation, dated _____, the undersigned hereby agrees to furnish all necessary materials, equipment and labor required, as well as all other things necessary for the complete execution of all work which is issued pursuant to this Contract. The sum total of all costs reflected in Unit Cost Schedule, Exhibit D, covered by and in conformity with the aforesaid plans, specifications and Contract documents is $_____.

BY: _____ **DATE:** _____

TITLE: _____

WITNESS: _____

(CORPORATE SEAL)

Insert Exhibit D-Unit Cost Schedule

CERTIFICATE OF LICENSE

This is to certify that _____ has complied with the requirements of Section 40-11-10 et seq, of the South Carolina Code of Laws, 1976 (as amended) and Section 10-1-10 et seq, of the Code of the Town of Hilton Head Island, South Carolina, 1983 (as amended).

State of S.C. Contractor's License No. (if applicable) _____

State of S.C. Offeror's License No. (if applicable) _____

Town of Hilton Head Island Business License No. _____

By: _____ Date: _____

Title: _____

Notes:

1. Contact the Business Office of the Town of Hilton Head Island, South Carolina to obtain a Town Business License.

CERTIFICATE OF INSURANCE

SPECIMEN

ENDORSEMENT - CASUALTY

Attached to and forming part of the Policy Number _____ of the

_____

(Name of Insurance Company)

Insurance Company, issues at its _____

(City)

_____, Agency.

(State)

Date of Endorsement _____

In consideration of the premium for which the policy is written and proper rate adjustment when applicable, the Insurance Company agrees as follows:

Item (1) This policy shall not be cancelled, changed (which includes renewal), allow to lapse, or allowed to expire until thirty days after the Town of Hilton Head Island, SC, Town Manager, One Town Center Court Hilton Head Island, SC 29928 has received written notice thereof as evidenced by return receipt of registered letter or until such time as other valid and effective insurance coverage acceptable in every respect to the Town of Hilton Head Island, SC, and providing equal protection called for in the policy shown below shall have received, accepted, and acknowledged by the Town of Hilton Head Island, SC. It is also agreed that the said notice shall be valid only as to such improvements or projects as shall have been designated by number is said notice, and that as to any improvement or project not designated by number in said notice, coverage shall be continued in full force and effect.

The foregoing insurance provisions have been incorporated into by the reference and are hereby made a part of insurance policy number _____, this _____ day of _____, 2015.

_____

(Name of Company)

_____

(Signature of Authorized Representative)

COLLUSION STATEMENT
AND
PROFESSIONAL LIABILITY/PERFORMANCE STATEMENT

This proposal is submitted for use in connection with and in response to _____. This is to certify to the best of my knowledge and belief that the cost and pricing data summarized herein are complete, current and accurate as of _____ and that a financial management capability exists to fully and accurately account for the financial transactions under this project. I further certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same materials, supplies or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this proposal and certify that I am authorized to sign this proposal for the Offeror.

I certify that our company has/has not been involved in any litigation within the past five (5) years regarding professional liability or performance. (If there has been litigation, attach an explanation).

Has a federal agency or a federally certified state or local agency performed any review of your accounts, records, or contracts in connection with any grant or contract within any grant or contract within the past twelve months? ☐ Yes ☐ No

If "yes," give name, address, and telephone number of reviewing office on an attached statement.

_____
Date of Execution

_____
Signature of Proposer

_____
Title of Proposer

_____
Company Name

_____
Address

_____
City/State/Zip Code

_____
Telephone Number

REFERENCES

Name of Firm:_____

Age of Business:_____

References should be companies or agencies that have contracted with the Offeror within the last **three years** for similar work. At least three references are required. If applicable, at least three references are required for similar work done in the past three years for each Subcontractor that will be utilized under this Contract.

REFERENCE 1

Name: _____

Address: _____

_____

Point of Contact: _____

Telephone Number: _____ Email: _____

Contract: _____

Description of Contract: _____

_____

_____

_____

Amount of Contract: $ _____

Year Work Completed: _____

REFERENCE 2

Name: _____

Address: _____

_____

Point of Contact: _____

Telephone Number: _____ Email: _____

Contract: _____

Description of Contract: _____

_____

_____

_____

Amount of Contract: $ _____

Year Work Completed: _____

REFERENCE 3

Name: _____

Address: _____

_____

Point of Contact: _____

Telephone Number: _____ Email: _____

Contract: _____

Description of Contract: _____

_____

_____

_____

Amount of Contract: $ _____

Year Work Completed: _____

REFERENCE 4

Name: _____

Address: _____

_____

Point of Contact: _____

Telephone Number: _____ Email: _____

Contract: _____

Description of Contract: _____

_____

_____

_____

Amount of Contract: $ _____

Year Work Completed: _____

REFERENCE 5

Name: _____

Address: _____

_____

Point of Contact: _____

Telephone Number: _____ Email: _____

Contract: _____

Description of Contract: _____

_____

_____

_____

Amount of Contract: $ _____

Year Work Completed: _____

SAMPLE AGREEMENT

STATE OF SOUTH CAROLINA	**)**	
	)	**SAMPLE AGREEMENT**
COUNTY OF BEAUFORT	**)**	

THIS AGREEMENT is made this <<Date>> between <<Company Name>> (hereinafter called “Contractor") and the Town of Hilton Head Island (hereinafter called "Town"), a municipal corporation organized and existing under the laws of the State of South Carolina.

WHEREAS, the Town has a requirement to <<list service or supply>>;

WHEREAS, the Town and the Contractor desire to enter into an Agreement wherein the Contractor shall provide such services as set forth herein below.

NOW, THEREFORE, for and in consideration of the mutual promises, undertakings and covenants set forth herein, the receipt and sufficiency of which is acknowledged and affirmed by the Town and the Contractor, the parties hereto agree as follows:

1. The Contractor shall <<list task or services to be provided>>.

2. The total cost of this contract shall not exceed <<List total cost>>.

3. The term of this Agreement shall be from the date of execution to <<date>>.

4. The contractor is required to maintain appropriate levels of insurance for both workers compensation coverage and for auto liability. The Contractor is required to maintain One Million dollars of general liability insurance. The contractor must provide the Town with a Certificate of Workers Compensation and general liability coverage that names the Town as an additional insured. The contractor is required to immediately contact the Town should any change to these policies occur during the course of the performance of this contract. Failure to maintain these policies is grounds for termination.

5. The Town Manager may terminate this contract in whole or in part at any time for the convenience of the Town. If the contract is terminated for the convenience, the Town will pay the contractor for costs incurred to that date of termination.

6. Should any part of this Agreement be rendered void, invalid, or unenforceable by any court of law, such a determination shall not render void, invalid, or unenforceable any other part of this Agreement.

7. This Agreement has been made and entered into in the State of South Carolina, and the laws of South Carolina shall govern the validity and interpretation of this Agreement in the performance due hereunder.

8. This Agreement may not be modified unless such modification is in writing and signed by both parties.

9. The Contractor may not assign this contract without the prior written approval of the Town.

10. The Contractor shall defend, indemnify, and hold harmless the Town, its officers, directors, agents, and employees from and against any and all actions, costs, claims, losses, expenses, and/or damages, including attorney's fees, whether incurred prior to the institution of litigation, during litigation, or on appeal arising out of or resulting from the conduct of any activity hereby authorized or the performance of any requirement imposed pursuant by this Agreement, however caused or occasioned, unless caused by the willful misconduct or gross negligence of the Town.

11. The parties hereto intend that no master/servant, employer/employee, or principal/agent relationship will be created by this Agreement. Nothing contained herein creates any relationship between the Town and the Contractor other than that which is expressly stated herein. The Town is interested only in the results to be achieved under this Agreement, and the conduct and control of the agents and employees of the Contractor and the methods utilized by the Contractor in fulfilling its obligations hereunder shall lie solely and exclusively with the Contractor and its agents and employees shall not be considered agents or employees of the Town for any purpose. No person employed by the Contractor shall have any benefits, status, or right of employment with the Town.

12. The Contractor, by signing this Contract, hereby certifies that Contractor shall comply with all applicable requirements of the South Carolina Illegal Immigration Reform Act, S.C. Code Ann. §41-8-10 (2007) et seq., (the "Act"), and that Contractor covenants and agrees as follows:

12.1. Contractor shall not knowingly or intentionally employ any unauthorized alien and, unless excluded from coverage of the "Act", shall verify the work authorization of newly hired employees performing work under the contract by either:

(a) registering and participating in the Federal Work Authorization Program (E-verify) and verifying the work authorization of every new hired employee within five (5) business days after employing employee; or

(b) employing only workers who, at the time of said employment:

1. possess a valid South Carolina driver's license or identification card; or

2. are eligible to obtain a South Carolina driver's license or identification card by providing proof of name, social security number and date and place of birth; or

3. possess a valid driver's license or identification card from another state deemed by the Executive Director Department of Motor Vehicles to have requirements at least as strict as those in South Carolina.

Contractor may choose either option 12.1 (a) or option 12.1 (b) but acknowledges that Contractor cannot use both.

12.2. Contractor agrees to provide to the Town all documentation requested by it to establish either:

(a) the applicability of the South Carolina Illegal Immigration Reform Act to Contractor; or

(b) compliance with the South Carolina Illegal Immigration Reform Act by Contractor.

12.3. Contractor agrees to include in any contracts with its sub-contractors language requiring its sub-contractors to:

(a) comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws; and

(b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws.

12.4. Contractor acknowledges and agrees that it shall comply with requirements of the Immigration Reform and Control Act of 1986 including the non-discrimination provisions thereof, and shall complete all required I-9 documentation for all workers employed by it.

12.5. Contractor certifies it shall comply with all state, federal, and local laws, rules, regulations and orders applicable to it in performance of work under the contract.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures hereto the date first written hereinabove.

WITNESSES: **<< CONTRACTOR'S FULL NAME>>**

_____ By: _____

_____ Its: _____

WITNESSES: **TOWN OF HILTON HEAD ISLAND**

_____ By: _____
Gregory D. DeLoach, Esq.,
_____ Its: Assistant Town Manager

CONTRACTOR AFFIDAVIT
SOUTH CAROLINA ILLEGAL IMMIGRATION REFORM ACT

In accordance with the requirements of the South Carolina Illegal Immigration Reform Act, _____ ("Contractor") hereby certifies that it is currently in compliance with the requirements of Title 8, Chapter 14 of the South Carolina Code Annotated and will remain in compliance with such requirements throughout the term of its contract with the Town of Hilton Head Island, South Carolina

The Contractor hereby acknowledges that in order to comply with requirements of S. C. Code Annotated Section 8-14-20(B), it will:

(1) Register and participate in the federal work authorization program (E-verify) to verify the employment authorization of all new employees; and require agreement from its subcontractors, and through the subcontractors, the sub-subcontractors, to register and participate in the federal verification employment authorization of all new employees.

OR

(2) Employ only workers who:

(a) Possess a valid South Carolina driver's license or identification card issued by the South Carolina Department of Motor Vehicles; or

(b) Are eligible to obtain a South Carolina driver's license or identification card in that they meet the requirements set forth in S. C. Code Annotated Sections 56-1-40 through 56-1-90; or

(c) Possess a valid driver's license or identification card from another state where the license requirements are at least as strict as those in South Carolina, as determined by the South Carolina Department of Motor Vehicles. .

The Contractor agrees to provide to the Town of Hilton Head Island upon request any documentation required to establish the applicability of the South Carolina Illegal Immigration Reform Act to the contractor, subcontractor or sub-subcontractor. The Contractor further agrees that it will, upon request, provide the Town of Hilton Head Island with any documentation required to establish that the contractor and any subcontractors or sub-subcontractors are in compliance with the requirements of Title 8, Chapter 14 of the S. C. Code Annotated.

Date: _____ By: _____
Contractor

Title: _____

Construction

By signing its bid or proposal, Contractor certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agrees to provide to the Town of Hilton Head Island upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable both to Contractor and its subcontractors or sub-subcontractors; or (b) that Contractor and its subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." Contractor agrees to include in any contracts with its subcontractors language requiring its subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14.

Non-Construction

By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the Town of Hilton Head Island upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement,. or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14.

EXHIBIT A

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

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by

AMERICAN COUNCIL OF ENGINEERING COMPANIES

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A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS
and
Amended by the Town of Hilton Head Island
February, 2013

Endorsed by

CONSTRUCTION SPECIFICATIONS INSTITUTE

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor (EJCDC C-520 or C-525, 2007 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the Narrative Guide to the EJCDC Construction Documents (EJCDC C-001, 2007 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition).

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1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

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

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

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

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

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

1. *Addenda*—Written or graphic instruments issued prior to the opening of Proposal which clarify, correct, or change the Propsal Requirements or the proposed Contract Documents.

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

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

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

5. *Proposal*—The offer or proposal of a Proposer submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Proposer*—The individual or entity who submits a Proposal directly to Owner.

7. *Proposal Documents*—The Proposal Requirements and the proposed Contract Documents (including all Addenda).

8. *Proposal Requirements*—The advertisement or invitation to Proposal, Instructions to Proposers, Proposal security of acceptable form, if any, and the Proposal Form with any supplements.

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

10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with

respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

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

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

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

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

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

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

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

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

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

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

21. *General Requirements*—Sections of Division 1 of the Specifications.

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

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

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

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

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

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

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

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

30. *PCBs*—Polychlorinated biphenyls.

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

32. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

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

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

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

36. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.

37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

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

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

40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

41. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

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

43. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.

44. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms

"substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

45. *Successful Proposer*—The Proposer submitting a responsive Proposal to whom Owner makes an award.

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

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

48. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

49. *Unit Price Work*—Work to be paid for on the basis of unit prices.

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

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

1.02 *Terminology*

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

B. *Intent of Certain Terms or Adjectives:*

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

C. *Day:*

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

D. *Defective:*

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

   a. does not conform to the Contract Documents; or

   b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

   c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

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

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

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

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

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

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

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

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

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

2.02 *Copies of Documents*

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

2.03 *Commencement of Contract Times; Notice to Proceed*

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

2.04 *Starting the Work*

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

2.05 *Before Starting Construction*

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

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

2. a preliminary Schedule of Submittals; and

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

2.06 *Preconstruction Conference; Designation of Authorized Representatives*

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

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.07 *Initial Acceptance of Schedules*

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

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress

Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

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

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

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

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

B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.

C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

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

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

2. No provision of any such standard, specification, manual, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or

authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

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

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

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

   a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); or

   b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Supplementing Contract Documents*

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

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

1. A Field Order;

2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or

3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier shall not:

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

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

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

3.06 *Electronic Data*

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

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party

receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.

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

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

4.01 *Availability of Lands*

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

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

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

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

1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and

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

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

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

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

4.03 *Differing Subsurface or Physical Conditions*

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

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

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

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

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

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

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

C. *Possible Price and Times Adjustments:*

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

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

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

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

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

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

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

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or

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

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

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

    a. reviewing and checking all such information and data;

    b. locating all Underground Facilities shown or indicated in the Contract Documents;

    c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and

    d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated:*

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

2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefore as provided in Paragraph 10.05.

4.05 *Reference Points*

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

4.06 *Hazardous Environmental Condition at Site*

A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.

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

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

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

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

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

D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous

Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.

F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

G. ***THIS SECTION OMITTED BY THE TOWN OF HILTON HEAD ISLAND***

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

~~Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.~~

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

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

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

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

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

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

another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

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

5.03 *Certificates of Insurance*

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

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

C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor’s obligation to maintain such insurance.

D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.

E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor’s liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance (DELETED)*

This section has been deleted – refer to the Special Conditions for Contractor's Insurance requirements.

5.05 *Owner's Liability Insurance (DELETED)*

This section has been deleted – refer to the Special Conditions for Contractor's Insurance requirements.

5.06 *Property Insurance (DELETED)*

This section has been deleted – refer to the Special Conditions for Contractor's Insurance requirements.

5.07 *Waiver of Rights*

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

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

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

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

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

5.08 *Receipt and Application of Insurance Proceeds*

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

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

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

A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does

not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

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

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

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

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

6.02 *Labor; Working Hours*

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

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

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

6.03 *Services, Materials, and Equipment*

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

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

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

6.04 *Progress Schedule*

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

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

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

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or

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

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

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

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

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

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

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

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

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

2. *Substitute Items:*

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

    b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.

c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.

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

1) shall certify that the proposed substitute item will:

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

b) be similar in substance to that specified, and

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

2) will state:

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

b) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

3) will identify:

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

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

4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.

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

C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.

D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

E. *Engineer's Cost Reimbursement*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

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

6.06 *Concerning Subcontractors, Suppliers, and Others*

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

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Proposal Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:

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

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

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

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

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

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the

applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

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

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

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

the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 *Permits*

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

6.09 *Laws and Regulations*

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

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

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

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas:*

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

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

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

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

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

D. *Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and

annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Engineer for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to Engineer for Owner.

6.13 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

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

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

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

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

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

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

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

6.14 *Safety Representative*

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

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

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

6.17 *Shop Drawings and Samples*

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

1. *Shop Drawings:*

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

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria,

materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples:*

   a. Submit number of Samples specified in the Specifications.

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

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

C. *Submittal Procedures:*

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

      a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

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

      c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

      d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

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

   3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the

requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review:*

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

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

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

E. *Re-submittal Procedures:*

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

6.18 *Continuing the Work*

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

6.19 *Contractor's General Warranty and Guarantee*

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.

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

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

2. normal wear and tear under normal usage.

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

1. observations by Engineer;

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

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

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

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

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

7. any correction of defective Work by Owner

THIS SECTION OMITTED BY THE TOWN OF HILTON HEAD ISLAND

~~6.20 *Indemnification*~~

~~A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages~~

~~(including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting there from, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .~~

~~B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.~~

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

~~1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or~~

~~2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.~~

6.21 *Delegation of Professional Design Services*

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

B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such

services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

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

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

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

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to Contractor prior to starting any such other work; and

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

B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise

altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

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

7.02 *Coordination*

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

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities will be provided.

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

7.03 *Legal Relationships*

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

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

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

ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of Engineer*

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

8.03 *Furnish Data*

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

8.04 *Pay When Due*

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

8.05 *Lands and Easements; Reports and Tests*

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

8.06 *Insurance*

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

8.07 *Change Orders*

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

8.08 *Inspections, Tests, and Approvals*

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

8.09 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

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

8.11 *Evidence of Financial Arrangements*

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

8.12 *Compliance with Safety Program*

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

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

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

9.02 *Visits to Site*

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

generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

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

9.03 *Project Representative*

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

9.04 *Authorized Variations in Work*

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

9.05 *Rejecting Defective Work*

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

9.06 *Shop Drawings, Change Orders and Payments*

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

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

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

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

9.07 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

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

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

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

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

D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in

connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

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

9.10 *Compliance with Safety Program*

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

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

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

B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

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

10.03 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *Notification to Surety*

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

10.05 *Claims*

A. *Engineer's Decision Required*: All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).

C. *Engineer's Action*: Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part;

2. approve the Claim; or

3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

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

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive Proposal from subcontractors acceptable to Owner and Contractor and shall deliver such Proposal to Owner, who will then determine, with the advice of Engineer, which Proposal, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

    a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

    b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

    c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

    d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.

    e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

    f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance

established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

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

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.

C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.02 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances:*

1. Contractor agrees that:

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

b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance:*

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately

identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Proposal and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

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

3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

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

12.01 *Change of Contract Price*

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

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include

an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

   a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

   b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;

   c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

   d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

   e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and

   f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

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

B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefore as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.

D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

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

13.01 *Notice of Defects*

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

13.02 *Access to Work*

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

13.03 *Tests and Inspections*

A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or

approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.

F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

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

13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

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

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or

2. correct such defective Work; or

3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

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

13.09 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

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

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

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

14.02 *Progress Payments*

A. *Applications for Payments:*

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

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

B. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

   a. the Work has progressed to the point indicated;

   b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole

prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

   a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or

   b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

   a. to supervise, direct, or control the Work, or

   b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

   c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

   d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or

   e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;

b. the Contract Price has been reduced by Change Orders;

c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or

d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. *Payment Becomes Due:*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

D. *Reduction in Payment:*

1. Owner may refuse to make payment of the full amount recommended by Engineer because:

   a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;

   b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

   c. there are other items entitling Owner to a set-off against the amount recommended; or

   d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due

as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.03 *Contractor's Warranty of Title*

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

14.04 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefore. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of

Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.

E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

14.05 *Partial Utilization*

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

1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which

this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

   a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;

   b. consent of the surety, if any, to final payment;

   c. a list of all Claims against Owner that Contractor believes are unsettled; and

   d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

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

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for

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

C. *Payment Becomes Due:*

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

14.08 *Final Completion Delayed*

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

14.09 *Waiver of Claims*

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

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION (DELETED)

This section has been deleted – refer to the Contract for termination conditions.

ARTICLE 16 – DISPUTE RESOLUTION (DELETED)

This section has been deleted – refer to the Contract for dispute resolution conditions.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or

2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

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

17.03 *Cumulative Remedies*

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

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

17.06 *Headings*

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

EXHIBIT B

SPECIAL CONDITIONS

If there are any conflicts between these Special Conditions and the project Special Provisions, the project Special Provisions shall prevail.

SC-1. DESCRIPTION OF THE WORK: Work performed under this Contract will consist of construction, maintenance and repair of stormwater infrastructure including, but not limited to, pipes, drainage structures, open channels, stormwater management facilities, and lagoons within the limits of the Town of Hilton Head Island, SC. General work includes, but is not limited to, earthwork, grading, channel cleaning, trimming vegetation, asphalt pavements, concrete curbs, gutters, driveways, sidewalks, and drainage structures, traffic control, pavement markings, guardrails, pipe removal and installation for various materials (e.g. RCP, CMP, HDPE, PVC, etc.), masonry structures, retaining walls, fences, erosion and sediment controls, protection, relocation and installation of utilities, wet utilities, landscaping, and/or other related construction activities.

The majority of work that will be completed under this Contract will be smaller maintenance and repair work for stormwater infrastructure, which may typically involve sinkhole repair, shallow (< 6' deep) and smaller storm pipe installation/replacement (< 36" diameter), installation/replacement/repair of drainage inlets, drainage ditch excavation, asphalt/concrete patching, etc. Work that may be completed under this Contract includes larger construction projects and may typically involve larger storm pipe installation/replacement (≥ 36" diameter), maintenance/repair/replacement of deeper storm drain systems (≥ 6' deep), lagoon dam repair, and may require the use of temporary shoring walls, trench boxes, diving services for temporary pipe plugs, well-point systems, etc. The Contractors have the ability to state their preference in the type of work they are interested in performing under this Contract (i.e. smaller projects, larger projects, or both) by completing the Proposal Questionnaire. However, by choosing a preference, this does not exclude the Contractor from the opportunity to perform any particular Job Order or type of work, but it will allow the Town the ability to assign work appropriately based on Contractor preference.

The Town anticipates grouping smaller planned projects together to minimize mobilization for the Contractor, as well as, allowing the Contractor longer performance periods to complete these grouped projects.

The Town may divide larger projects into smaller scopes of work, if it is determined to be advantageous to the Town to do so (e.g. the Town issues a Job Order to one Contractor for major underground stormwater repairs, but issues a separate second Job Order to a different Contractor, or utilizes proper procurement methods, for the paving portion of the project). This is intended to

alleviate any Subcontractor coordination issues or delays for the primary Job Order. The Contractor(s) must have the ability to perform, or subcontract, all work associated with the line items listed in the Unit Cost Schedule.

SC-2. GENERAL PROVISIONS: The work on this project is to be performed under the South Carolina Department of Transportation (SCDOT) Standard Specifications for Highway Construction, Current Edition; current SCDOT Supplemental Technical Specifications released by SCDOT at the time the bids for this project were opened; the Federal Highway Administration Manual on Uniform Traffic Control Devices for Streets and Highway (MUTCD), Current Edition; the Plans, Project Specifications, and these Special Conditions.

The Offeror shall show satisfactory evidence of experience and qualifications.

SC-3 DEFINITIONS: A substantial amount of specification language constitutes definitions for terms found in other Contract Documents, including Plans (also may be referred to as drawings) which must be recognized as diagrammatic in nature and not completely descriptive of requirements indicated thereon. Certain terms used in Contract Documents are defined generally in this section. Definitions in this section are general for the work to the extent not stated more explicitly in another section of Contract Documents.

Whenever the word, "Engineer" appears in these specifications and in the Plans, add the words "or Owner's Representative."

Where not otherwise explained, terms such as: "directed", "requested", "authorized", "selected", "approved", "required", "accepted", and "permitted" shall mean "directed by Engineer/Owner, etc." However, no such implied meaning will be interpreted to extend Engineer's/Owner's responsibility into Contractor's area of construction supervision.

Where used in conjunction with Engineer's/Owner's response to submittals, requests, applications, inquiries, reports, and claims by Contractor, the meaning of term "approved" will be held to limitations of Engineer's/Owner's responsibilities and duties as specified in General and Supplementary Conditions. In no case will "approval" by Engineer/Owner be interpreted as a release of Contractor from responsibilities to fulfill requirements of Contract Documents.

The term "install" is used to describe operations at project site, including unloading, unpacking, assembly, erection, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations, as applicable in each instance.

The term "provide" means furnish and install, complete and ready for intended use, as applicable in each instance.

The term "installer" is used to describe the entity (person or firm) engaged by Contractor or its Subcontractor for performance of a particular unit of work at the project site, including installation, erection, application, and similar required operations. It is a general requirement that such Installers be experienced in operations they are engaged to perform.

SC-4. INDUSTRY STANDARDS:

General Applicability of Standards: Applicable standards of construction industry have the same force and effect (and are made a part of Contract Documents by reference) as if copied directly into Contract Documents, or as if published copies were bound herewith.

Reference Standards (referenced directly in Contract Documents or by governing regulations) have precedence over non-referenced standards which are recognized in industry for applicability to work.

Non-referenced Standards recognized in the construction industry are hereby defined, except as otherwise limited in Contract Documents, to have direct applicability to the work, and will be so enforced for performance of the work.

The following abbreviations may be used throughout these specifications.

AASHTO	American Association of State Highway and Transportation Officials.
ANSI	American National Standards Institute
ASTM	American Society for Testing and Materials
EJCDC	Engineers Joint Contract Documents Committee
FS	Federal Specification (General Service Administration)
SCDOT	South Carolina Department of Transportation

SC-5. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE**:** The Contractor shall not commence work under this agreement until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Town, nor shall the Contract allow any Subcontractor to commence work on his subcontract until the insurance required of the Subcontractor has been so obtained and accepted.

a) Employer's Liability Insurance: The Contractor shall take out and maintain during the life of the contract the South Carolina statutory Workmen's

Compensation and Employer's Liability Insurance for all of his employees to be engaged in work on the project under the contract and, in case any such work is sublet, the Contractor should require the Subcontractor similarly to provide Workmen's Compensation and Employer's Liability Insurance for all the latter's employees to be engaged in such work.

b) General Liability, Bodily Injury and Property Damage Liability Insurance: The Contractor shall take out and maintain during the life of the contract a General Liability Insurance policy for an amount not less than One Million dollars ($1,000,000.00.) The policy shall include the Bodily Injury Liability and Property Damage Liability Insurance to protect him and any Subcontractor performing work covered by the contract from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under the contract, whether such operations be by himself or by a Subcontractor or by anyone directly or indirectly employed by either of them and the amount of such insurance should be not less than:

Bodily Injury Liability Insurance, in an amount not less than $1,000,000.00 for injuries, including wrongful death to any one person, and subject to the same limit for each person in an amount not less than $500,000.00 on account of one accident.

Property Damage Insurance in an amount not less than $350,000.00 for damages on account of any one accident, and in an amount not less than $1,000,000.00 for damages on account of all accidents.

c) Builder's Risk Insurance (Fire and Extended Coverage): The Contractor shall have adequate fire and standard extended coverage, with a company or companies acceptable to the Town, in force on the project.

The provisions with respect to Builder's Risk Insurance shall in no way relieve the Contractor of his obligation of completing the work covered by the Contract.

d) Proof of Carriage of Insurance: Prior to commencing work hereunder, Contractor, at his expense, shall furnish a current insurance certificate showing the certificate holder as Town of Hilton Head Island, One Town Center Court, Hilton Head Island, SC 29928, Attention: Bryan McIlwee, and with a special notation naming The Town of Hilton Head Island as an additional insured on the liability coverage. The Contractor shall furnish the Town with certificates showing the type, amount, class of operations, effective dates and date of expiration of policies. Such certificates shall contain a clause to the effect that the policy shall not be canceled or reduced, restricted, or limited until thirty (30) days after the Town has received written notice, as evidenced by return receipt of registered or certified letter. Certificates of Insurance shall contain transcript from the proper office of the insurer, the location, and the operations to which the

insurance applies, the expiration date, and the above mentioned notice of cancellation clause.

Contractor shall either:

(a) require each of his subcontractors to procure and maintain during the life of his subcontract, Subcontractor Comprehensive General Liability, Automobile Liability and Property Damage Liability Insurance of the type and in the same amounts as specified in this contract; or

(b) insure the activities of his subcontractors in his own policy.

Certificates of Insurance must be filed at time of proposal opening through the Owner on form provided in specifications or on AIA Document G705, November, 1978 Edition by an insurer authorized to do business in the State of South Carolina by the South Carolina Insurance Commission. All blanks and questions on Certification must be filled out completely. Incomplete or inadequate Certificate will be returned to Contractor as unsatisfactory and commencement of his work will be delayed until satisfactory Certificate is submitted. Such delay will not warrant extension of contract time.

The above section supersedes Article 5.04 in the General Conditions.

SC-6 COMMENCEMENT AND COMPLETION OF WORK: The Contractor shall commence work within 10 days after date specified in the Notice to Proceed for the corresponding Job Order. The Contractor shall complete the work within the performance period specified in the Job Order. Any and all extensions of time shall be in accordance with the General Conditions except as otherwise hereinafter provided. The Contractor agrees that time is of the essence for all projects in this Agreement.

If the Contractor fails to prosecute the work with such diligence as will insure the completion of each portion of the work within the time provided in the project Job Order, plus any extensions made in accordance with Article 12 of the General Conditions; and, if the Owner does not exercise his reservations as set forth in Article 13, the Contractor shall continue the work in which event the actual damages for the delay will be impossible to determine. In lieu thereof, liquidated damages will be Job Order specific and may be assessed for each day required to complete the work past the Substantial Completion deadline.

The Contractor shall not be liable for any excess costs, if the failure to perform the Contract arises out of causes beyond the control and without the fault of negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the

Contractor. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule. Unless weather delays are specifically allowed in this Agreement, they are not cause for excusable delays.

SC-7. DRAWINGS: The work shall conform to the Plans and specifications specific to each Job Order.

SC-8. OBSERVATIONS AND TESTING: Before acceptance of the whole or any part of the work, it shall be subjected to observation and tests to determine that it is in accordance with the plans and specifications. The Contractor will be required to maintain all work in a first class condition for a 30-day operating period after the same has been completed as a whole and the Owner has notified the Contractor in writing that the work has been finished to his satisfaction. The Contractor shall pay for all testing. He shall engage a mutually acceptable laboratory or qualified individual to conduct the tests in accordance with these specifications. No portion of the work will be accepted until tests prove it has been satisfactorily completed. The Contractor shall give the Project Engineer or Project Representative a minimum of 48 hours notice for all required observations or tests.

SC-9. BONDS: No Performance or Payment Bond is required for this Contract. This paragraph shall supersede Article 5, Paragraph 5.01.A of the General Conditions.

SC-10. SAFETY AND HEALTH REGULATIONS: The Contractor shall comply with the Department of Labor Safety and Health Regulations for Construction promulgated under the Occupational Safety and Health Act of 1970 (PL 91-596) and under Section 107 of the Contract Work and Safety Standards Act (PL 91-54). The regulations are administered by the Department of Labor and the Contractor shall allow access to project to personnel from that Department.

Safety Precautions:

With respect to all work performed under this Contract, the Contractor shall comply with the safety standard provisions of applicable laws, codes, and the requirements of the Occupational Safety and Health Act of 1970. The Contractor shall also meet applicable temporary traffic control sections of the "Manual on Uniform Traffic Control Devices (MUTCD)", latest edition.

In particular, the Contractor and its employees shall at all times:

- Exercise every precaution for the prevention of accidents and the protection of persons (including employees) and property. Employees shall wear appropriate Personal Protective Equipment for the work and conditions.

- Maintain on all vehicles, all articles necessary for giving first aid to the injured, and shall make standing arrangements for the immediate removal to a hospital or a doctor’s care of persons (including Contractor’s employees), who may be injured on the job site.
- Not be permitted to work at the job site until the Contractor has made a standing arrangement for removal of injured persons to a hospital or a doctor’s care.

Until final acceptance of the work under this Contract, the Contractor shall continuously maintain adequate protection of their work and work in progress from damage, and shall protect machinery, equipment, materials and supplies being handled, from loss or damage arising out of or in connection with the prosecution of their work. The Contractor shall make good any such loss or damage. The Contractor shall adequately protect adjacent private and public property as provided by law and the Contract Documents.

Contractor shall not load or permit any part of any structure to be loaded with a weight that would endanger its safety. It shall be the Contractor's responsibility to verify the acceptable load carrying capacity of any structure the Contractor's equipment or work will affect, unless the load carrying capacity is so stated by the Engineer.

The Contractor shall immediately report in writing, giving full details, to the Owner all accidents which arise out of or in connection with the performance of the work, whether on or adjacent to the site, which cause death, serious personal injury or substantial property damage. In addition, the accident shall be reported immediately by the telephone or messenger to the Engineer. If a claim is made or suit is filed by anyone against the Contractor on account of any accident, the Contractor shall promptly report the facts in writing to the Engineer, with a copy to the Owner, giving full details of the claim.

The Contractor shall assume all risks of loss or damage of any kind to any vehicles, machinery, equipment, materials or supplies which the Contractor shall provide in doing the work.

The Contractor shall conduct the work in such a manner as to adequately protect property owned by others on or about the Owner's premises from damage by the construction operations.

The Contractor shall take all necessary precautions for the safety of employees on the work. The Contractor shall comply with all applicable provisions of Federal, State and local safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed. The Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards and barricades for the protection of employees on the work and the safety of others employed near

the work and the public. The Contractor shall post danger signs and warning lights warning against the hazards created by such features of the construction.

Traffic Regulations:

The Contractor is responsible for complying with all Federal, State, and local laws and regulations regarding applicable traffic, safety, speed, and weight limits for bridges and roads utilized for transport. Repeated failure of the Contractor to comply with applicable load and traffic regulations will result in suspension of transport operations until the Contractor demonstrates to the satisfaction of the Engineer that the Contractor has taken sufficient steps to ensure compliance with these regulations. The Engineer reserves the right to require the Contractor to suspend or terminate the use of any truck, driver, or related equipment if, in his opinion, the equipment or operator is unsuited for the work or operating in an unsafe or potentially unsafe manner. The Contractor shall notify, and coordinate with, local law enforcement and highway agencies regarding transport activities which shall be undertaken for the work.

SC-11. HOLD HARMLESS CLAUSE: The Contractor agrees to hold harmless, indemnify and defend the Town and his agents, architects, engineers and employees from and against any and all claims, losses, damages, demands, causes of action and any and all related costs and expenses, of every kind and character, growing out of, incidental to, or resulting directly or indirectly from the Contractor's performance of the work described herein, whether such loss, damage, injury, or liability is contributed to by the negligence of the Town, its agents, architects, engineers, or employees, except that the Contractor shall have no liability for damages or the costs incidental thereto caused by the sole negligence of the Town, its agents, architects, engineers, or employees.

The Contractor will require any and all Subcontractors to conform with the provisions of this clause prior to commencing any work and agrees to ensure that this clause is in conformity with the insurance provisions of the Contract.

SC-12. CONTRACTOR'S STATUS: It is agreed that the Contractor shall occupy the status of an Independent Contractor and the Contractor's employees are not employees of the Town.

The Contractor will be required to assume sole responsibility for the complete effort, as required by this Agreement. The Town will consider the Contractor to be the sole point of contact with regard to contractual matters.

SC-13. SUBCONTRACTING: If any part of the work covered by this Agreement is to be subcontracted, the Contractor shall identify the subcontracting organization and the contractual arrangements made with same. The Contractor will furnish the corporate or company name and the names of the officers of any Subcontractors. All Subcontractors utilized for this Contract must have a Town

Business License, as well as, the insurance and licenses required by the work and the Contract. No Subcontractor may be used under this Contract without prior written approval from the Town. The primary Contractor must perform a majority of the work under this Contract; Subcontractors may not perform more than 50% of the total annual work contracted dollar amount.

All non-contractual subcontracted work (i.e. items not listed in the Unit Cost Schedule) will be paid for by the Town at the Subcontractor's Cost of Work plus a fee, according to the Exhibit A- General Conditions. Any proposed subcontracted work must be submitted to the Town via an estimate provided by the Subcontractor prior to the subcontracted work being approved in writing by the Town. The Subcontractor costs in the estimate must be inclusive of all direct and indirect costs associated with completing the work, including, but not limited to, mobilization, equipment, labor, and fuel costs.

SC-14. SUBCONTRACTOR REFERENCES: The Contractor shall provide the Town with three (3) references of companies or agencies that have contracted with the Subcontractor within the past three (3) years for similar type construction work using the attached reference forms. The Owner must approve each Subcontractor in writing prior to his engagement by the Contractor.

SC-15. CONTRACTOR'S AFFIDAVIT: Upon completion of the work and prior to final payment and settlement of all sums due hereunder, Contractor will furnish to Town, a Contractor's Affidavit in the usual form submitted by Contractor under the laws of the State of South Carolina to the effect that all bills for labor, materials and services in connection with said Contract have been paid in full, acknowledging receipt of the Contract price and averring that there are no outstanding claims under said Contract which could become a lien on the real estate arising out of said Contract.

STATUTORY AFFIDAVIT

COUNTY OF _____

STATE OF _____

FROM _____
(Contractor)

TO _____

RE: Contract entered into the _____ day of 2015, between the above-mentioned parties for the construction of the _____ _____ in the Town of Hilton Head Island.

KNOWN ALL MEN BY THESE PRESENTS:

1. The Undersigned hereby certifies that all work required under the above Contract has been performed in all accordance with the terms thereof, that all material men, subcontractors, mechanics and laborers have been paid and satisfied in full, and that there are not outstanding claims of any character, (including disputed claims or any claim to which the Contractor has or will assert any defense) arising out of the performance of the Contract which have not been paid and satisfied in full except as listed hereinbelow: (Instruction - Enter the "none" or list the names of claimants and the amount claimed by each.)

2. The Undersigned further certifies that to the best of his knowledge and belief there are not unsatisfied claims for damages resulting from injury or death to any employees, subcontractors, or the public at large arising out of the performance of the Contract, or any suits or claims for any other damage of any kind, nature, or description which might constitute a lien upon the property of the Owner.

3. The Undersigned makes this affidavit as provided by law and for the purpose of receiving final payment in full settlement of all claims against the Owner arising under or by virtue of the Contract, and acceptance of such payment is acknowledged as a release of the Owner from any and all claims arising under or by virtue of the Contract.

This ___ day of _____, 2015.

_____ (L.S.)
Signature

_____
Title

_____
Firm

COUNTY OF

STATE OF

Personally before me, the Undersigned authority, appeared

_____

Who is known to me to be an official of the firm of

_____

Who, after being duly sworn, stated on his oath that he had read the above statement and that the same is true and correct.

_____
Notary Public
My Commission Expires:

This ___ day of _____, 2015

SC-16. RESIDENT PROJECT ENGINEER: The Town reserves the right to furnish a Resident Project Engineer as deemed necessary to insure the Project quality control and conform to Plans and Specifications, who will act as the Owner's Representative on the Project and will have the authority of the Engineer as set forth in the Contract Documents.

SC-17. BARRICADES, DANGER AND WARNING SIGNS: The Contractor shall at all times follow the requirements of the "Manual on Uniform Traffic Control Devices", latest edition, and the SCDOT Work Zone Safety Handbook. All traffic control devices shall be in accordance with the "Manual on Uniform Traffic Control Devices" latest edition. The Contractor shall install and maintain barricades, suitable and sufficient lights, danger signals, signs, and other traffic control devices and shall take all necessary precautions for the protection of the work and safety of the public. Lanes closed to traffic shall be protected at all times by effective barricades. No night time traffic control is allowed, unless specifically authorized in writing by the Town. Suitable warning signs shall be provided to control, direct traffic and warn pedestrians. Upon completion, all barricades, signs and the like shall be removed.

SC-18. TOOLS, PLANT AND EQUIPMENT: If at any time before the commencement or during the progress of the work, tools, plant or equipment appear to the Engineer to be insufficient, inefficient or inappropriate to secure the quality of the work required or the proper rate of progress, the Engineer may order the Contractor to increase their efficiency, to improve their character, to augment their number, or to substitute new tools, plant, or equipment, as the case may be, and the Contractor must conform to such order; but a failure of the Engineer to demand such increase of efficiency, number, or improvement shall not relieve the Contractor of his obligation to secure the quality of work and the rate of progress necessary to complete the work within the time required by his Contract to the satisfaction of the Town.

SC-19. ACCIDENTS: The Contractor shall provide, at the site, such equipment and medical facilities as are necessary to supply first-aid service to anyone who may be injured in connection with the work. The Contractor must report in writing to the Engineer all accidents whatsoever arising out of, or in connection with, the performance of the work, whether on or adjacent to the site, which causes death, personal injury or property damages, giving full details and statement of witnesses. In addition, if death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to both the Contractor and any Subcontractor on account of any accident, the Contractor shall promptly report the facts to the Engineer, giving full details in writing of the claim. The Contractor shall advise his superintendent and foreman, who are on the site of the work, the name of hospital and phone number and the name and phone number of the doctor he proposes to use in case of an accident.

SC-20. SANITARY PROVISIONS: The Contractor shall provide temporary sanitary facilities for the use of the workmen during the progress of the work. The sanitary facilities shall conform to the requirements of the South Carolina Department of Health & Environmental Control. All facilities shall be removed at the completion of the Contract.

SC-21. MODIFICATION AND DELETION OF WORK: The itemized quantities in the Job Order shall be considered by the Contractor as the quantities required to complete the work for the purpose of bidding. Should actual quantities required in the construction of the work be greater or less than the quantities shown on the Job Order items, an amount equal to the difference in quantities at the unit prices for the item will be added to or deducted from the Contract price. Payment will be made according to actual quantities expended.

When itemized quantities are not given in the Proposal, the work shown on the plans or specified shall be considered by the Contractor to be included in his Contract for the lump sum prices proposal.

The Town reserves the right to delete quantities and portions of the work shown on the plans due to access issues and land rights.

SC-22. RESPONSIBILITY REGARDING EXISTING UTILITIES AND STRUCTURES: The Contractor shall be solely responsible for locating all existing utilities and for any damages to existing utilities while executing a Job Order. The Contractor shall contact Palmetto Utility Protection Service (PUPS) at 1-888-721-7877, at least 72 hours prior to beginning excavation. The Contractor shall provide the Town copies of the PUPS ticket and number as soon as they receive it and this shall be attached to the Job Order as a submittal. The existence and location of underground utilities will be investigated and verified in the field by the Contractor before starting work. The location of all known interferences based on the best information available has been shown on the drawings, but this information may not be complete. The Engineer assumes no responsibility for the accuracy of their location or that all utilities are shown. Existing utilities and obstructions that will be encountered during construction shall be located and their elevations determined in advance of construction. Excavation in the vicinity of existing structures and utilities shall be carefully done by hand. Contractor shall report interferences and discrepancies to the Engineer and the Owner immediately. The Contractor shall be held responsible for any damage to and for maintenance and protection of existing utilities and structures. The Contractor is responsible for coordinating with the utility companies for locations, any relocation, adjustment or replacement of utility facilities.

SC-23. INTERRUPTION OF UTILITY SERVICE: The Contractor's operations shall be so conducted as to interfere as little as possible with utility services. Any proposed interruption by the Contractor must be accepted in advance by the Engineer.

SC-24. OMISSION: The drawings and specifications shall both be considered as a part of the Contract. Any work and material shown in the one and omitted in the other, or described in the one and not shown in the other, or which may fairly be implied by both or either, shall be furnished and performed as though shown in both, in order to give a complete and first class job.

SC-25. MEASUREMENT AND PAYMENT: Measurement and payment shall be made for the units and at the lump sum Contract prices shown on the Unit Cost Schedule, Exhibit D. Direct payment shall only be made for those items or work specifically listed in the proposal and the cost of any other work must be included in the Contract price for the applicable items to which it relates.

The Town will pay the Contractor within thirty (30) working days upon receipt and authorization to pay from the Town's Contract representative of Contractor's invoice for work completed and accepted by the Town. The Town does not pay any late charges.

Progress Payments - Progress payments will be made on monthly estimates, based on the amount of work done or completed. The monthly payments will be approximate, and all payments will be subject to correction in the subsequent estimates and the final payment.

The Town has the right to withhold payment for an invoice or any portion of an invoice where payment is in question. Contractor is still required to complete the remaining portions of the Agreement.

The amount of payments shall be the total value of the work done to the date of the estimate on the basis of the lump sum price.

Partial payments will also be made for the delivered cost of materials intended to be incorporated in the Work, provided the materials meet the requirements of the Contract Documents when delivered to Project Site and stored in acceptable manner. Payments will be made only if a copy of the invoice from the materials supplier listing the cost of the materials accompanies the payment request.

Retainage - The **retainage of 10%** shall apply to all payment requests.

The Contractor will be funded at 90% of actual cost until Substantial Completion has been fulfilled whereby the retainage of 10% of the cost, less change orders, will be released.

Payment Application Times - The date for each progress payment is the 25th day of each month. The period of construction work covered by each payment request is the period ending 10 days prior to date for each progress payment, and starting day following end of preceding period.

Submit to the Owner an itemized application for payment (i.e. payment request) at least 10 days before the date of each progress payment (i.e. the 15th day of each month).

Payment Application Forms – Payment must be made on the EJCDC Document C620 Contractor's Application for Payment, which will be provided to the Contractor.

Application Transmittal - Submit 2 executed copies of each payment application. Transmit each copy with a transmittal form listing attachments, and recording appropriate information related to application in a manner acceptable to the Owner.

Comply with procedures for submittals specified in SC-37 - Submittals, of this document.

Application Preparation - Except as otherwise indicated, complete every entry provided for on the form, including notarization and execution by authorized persons. Incomplete applications will be returned without action. Listing must include amounts of executed change orders issued prior to last day of the "period of construction" covered by application.

Meeting To Coordinate Pay Requests - Contractor should plan to meet with Owner's Representative the same time every month to coordinate quantities and amounts for that month's pay request.

Final Payment Application - The administrative actions and submittals which must precede or coincide with submittal of final payment application are summarized but not limited to the following:

a. Completion of final punch list items.

b. Assurance, satisfactory to Owner, that unsettled claims will be settled and that work not actually completed and accepted will be completed without undue delay.

c. Submit Contractor's Statutory Affidavit of Payment of Debts and Claims furnished in the Special Conditions.

d. Submit waivers of lien from every entity (including Contractor) who could lawfully and possibly file a lien in excess of $100 arising out of Contract and related to work covered by payment. Submit Contractor's Statutory Affidavit provided in the Special Conditions.

e. Transmittal of required project construction records to Owner.

f. Proof, satisfactory to Owner, that taxes, fees and similar obligations of Contractor have been paid.

g. Removal of temporary facilities, services, surplus materials, rubbish and similar elements.

SC-26. "OR EQUIVALENT," CLAUSE: Although the plans and specifications make reference to particular manufacturers and model numbers for various products, such reference is made only to establish function and quality of such products. If it is desired to use materials or equipment of trade names or of manufacturer's names which are different from those mentioned in the contract documents, information pertaining to such items must reach the hands of the Engineer at least 10 days prior to the date set for the opening of proposals. The burden of proving equality of a proposed substitute to an item designated by trade name or by manufacturer's name in the contract document rests on the party submitting the request for acceptance. The written application for review of a proposed substitute must be accompanied by technical data which the party requesting review desires to submit in support of his application. The Engineer will give consideration to reports from reputable independent testing laboratories, verified experience records showing the reputation of the proposed product with previous users or any other written information that is reasonable in the circumstances. The application to the Engineer for review of a proposed substitute must be accompanied by a schedule setting forth in what respects the material or equipment submitted for consideration differs from the materials or equipment designated in the contract documents. The degree of proof required for acceptance of a proposed substitute as equivalent to a named product is the amount of proof necessary to convince the Engineer beyond all doubt. To be acceptable, a proposed substitute must, in addition, meet or exceed all express requirements of the contract documents.

If submittal is accepted by the Engineer, an addendum will be issued to all prospective Offeror at least five (5) days prior to the date set for the opening of proposals.

The Engineer shall be the final judge on questions of similarity and equality.

SC-27. RECORD DRAWINGS AND AS-BUILT SURVEY: The Town shall provide the original construction plans in AutoCAD format, if applicable. The Contractor shall at all times during construction of a project, keep accurate, legible records of the locations, types, sizes, and elevations of storm drainage pipes, drainage structures, curb lines, lighting conduit, water and sanitary sewer lines, service laterals, manholes, cleanouts, fittings, valves, and other related work performed under the project. The Contractor shall prepare a set of "record" drawings from the data stated above. The horizontal locations of all portions of items installed on the project shall be accurately tied down to features that are physical and

visible, such as property corner markers and/or permanent type structures. The actual invert elevations of the finished grade elevations of installed roadway, concrete curbing, and pathways shall be clearly indicated on the “record” drawings at the intervals specified on the construction drawings. These "record" drawings shall be kept clean and dry and maintained in a current state with the progress of the work. If at any time, a copy of this plan or portion of it is requested by the Owner, such copy shall be made available within 24 hours after the request is made.

Before final acceptance of the completed installation and before final payment by the Owner, the Contractor shall deliver to the Owner, a completed set of record drawings accurately depicting the data described above. This deliverable shall be a hard copy set of plans including clear and legible record data.

An As-Built Survey Plat must be prepared and certified by a South Carolina professional land surveyor that accurately identifies and depicts the horizontal location of all property corners, easements, and the horizontal and vertical locations of all on-site improvements. This shall include, all new impervious areas (roadways, pathways, sidewalks, parking facilities, paved areas, and buildings,), utilities, storm drainage structures, pipes, channels, and detention/retention areas. The diameter and type of material shall be clearly labeled on all new storm drainage pipes. All storm drainage structures, grate/rim and invert elevations shall be shown, along with finish grades on pavements and curbing as per the design plans. Design elevations shall be struck through and the actual as-built elevations shall be underlined and shown directly above or below the design elevation. The plat shall be clearly labeled and based upon the following datums NAD 83 and NAVD 88. The as-built survey shall confirm that all new facilities are within their intended easements. The As-Built Survey shall be delivered to the Town in the form of two (2) sets of hard copy, sealed prints at a legible scale, and the digital file in AutoCAD 2010 format or newer.

SC-28. PROPERTY CORNERS: The Contractor shall be responsible for restoring any and all property corners or monuments disturbed during construction. They shall be restored in accordance with the Town’s Land Management Ordinance, by a professional land surveyor registered in the State of South Carolina before final payment will be made.

SC-29. SITE PROTECTION AND CLEAN-UP: The Contractor is responsible for daily removal of any waste, spillage or otherwise unused material associated with the work and shall dispose of this material legally offsite at his own expense.

It is the intent of the Town that the work be accomplished with minimal disturbance to the properties adjacent to the work area (i.e. critical area, the adjacent lawns, landscaping, trees, driveways, and buildings), and that the immediate and general vicinity of the work area remain in its pre-project state subsequent to completion of the work. All areas outside of the work area that are

disturbed by the Contractor during the work shall be restored to its original pre-project condition or better at no additional cost to the Town. All materials and equipment utilized by the Contractor during construction shall be removed from the site after completion of the work, which includes, but is not limited to, survey stakes, debris, flagging and other temporary survey controls.

Wetlands, waterways, trees, roads, and adjacent property shall be protected throughout the work as defined in the specifications and on the drawings, using best management practices as necessary to prevent physical damage.

The Contractor shall conduct operations and take all special precautions necessary to protect equipment, utility lines, and subsurface, submerged and overhead facilities which are to remain in place and undisturbed by operations under this Contract. The offending Contractor shall immediately notify the Owner of the facilities or areas which are disturbed, damaged or injured as a result of the Contractor's operations and determine the proper method of replacing or repairing the affected facilities at least to the conditions which existed prior to the Contractor's operations. The offending Contractor shall, at the Contractor's expense, replace, repair or restore the affected facilities or areas to their original condition or shall reimburse the Owner of said facilities or areas for such expenses as the said Owner may accrue in performing the work. The Contractor shall not be entitled to receive additional compensation under this Contract for such work.

Roadways, pathways, fences, mailboxes, and other dwelling infrastructure within the work area and access route shall be protected by the Contractor to prevent damage thereto by the Contractor’s operations. The offending Contractor shall immediately notify the Owner of the facilities or areas which are disturbed, damaged or injured as a result of the Contractor's operations and determine the proper method of replacing or repairing the affected facilities at least to the conditions which existed prior to the Contractor's operations. The offending Contractor shall, at the Contractor's expense, replace, repair or restore the affected facilities or areas to their original condition or shall reimburse the Owner of said facilities or areas for such expenses as the said Owner may accrue in performing the work. The Contractor shall not be entitled to receive additional compensation under this Contract for such work. If access to any mailboxes cannot be continued during work, the Contractor must provide temporary mailboxes, properly numbered, and with proper access until the work is complete, at no additional cost to the Town.

Should the Contractor during the progress of the work lose, dump, or misplace any material or equipment which in the opinion of the Town or Engineer may be considered unaesthetic, environmentally deleterious, dangerous to the public, or impact adjacent properties, the Contractor shall recover and remove same within 24 hours of receipt of said notice at no additional cost to the Town. Any disturbed areas from such work will be mitigated and restored to its pre-project

state at no additional cost to the Town.

The Contractor shall inspect the work areas at the end of every workday to ensure that all trash (e.g. lunch bags, soda cans and bottles, drink cups, etc.) left by the Contractor and Subcontractor has been removed from the work areas and properly disposed of.

Upon completion of all construction activity, the Contractor shall restore all staging, storage, transport, and work areas, fences, disturbed areas, and other facilities to an equivalent pre-project condition or better to the approval of the Town.

SC-30. PLANS AND SPECIFICATIONS: The successful Contractor will be furnished 5 (five) sets of Contract Documents, free of charge, for use in the execution of the work.

Any corrections of errors or omissions in plans and specifications may be made by the Owner when such correction is necessary for the proper fulfillment of their intention as construed by him. Where said correction of errors or omissions, except as provided in the next two paragraphs below, adds to the amount of work to be done by the Contractor, compensation for said additional work shall be made under the item for Extra Work except where the additional work may be classed under some item or work for which a unit price is included in the proposal.

The fact that specific mention of a fixture, or of any part of the work, is omitted in the specifications, whether intentionally or otherwise, when the same is clearly shown or indicated on the plans, or is usually and customarily required to complete fully such work as is specified herein, will not entitle the Contractor to consideration in the matter of any claim for extra compensation, but the said fixture or work, must be installed as if called for by on the drawings and specifications.

All work indicated on the plans and not mentioned in the specifications, or vice versa, and all work and material usual and necessary to make the work complete in all parts, whether or not they are indicted on the plans or mentioned in the specifications, shall be furnished and executed the same as if they were called for by both the drawings and specifications.

When a requirement is made by the documents that is not possible to meet, such as the requirement for unavailable materials, prompt notice shall be submitted to the Owner for direction and no further action in the matter shall be taken by the Contractor until an approved modification of the requirements is made.

The Contractor and all Subcontractors shall cooperate with one another and with other Contractors doing related work and shall coordinate their work with the

work of other trades and other Contractors so as to facilitate the general progress of the work. Each trade shall afford all other trades and all other Contractors every reasonable opportunity for the installation of their work and for the storage of their materials.

The Contractor shall provide a construction schedule which shall be in sufficient detail to accurately show the work to be accomplished.

SC-31. CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS: If such separate Contractor sues the Owner on account of any damage alleged to have been caused by the Contractor, the Owner shall notify the Contractor who shall defend such proceedings at the Contractor's expense.

SC-32. TIME: Construction activity shall only occur from Monday through Friday from 7:00 AM to sunset and on Saturday from 8:00 AM to sunset unless otherwise authorized by the Town. There is no access permitted on Sundays to the work site. Lighting of the work site is prohibited, unless specifically authorized in writing by the Town.

No Holiday work will be permitted, except of great emergency and then only upon written notification to and approval from the Owner.

No work will be permitted in mid-April during the Heritage Golf Tournament, and any subsequent years during the scheduled tournament dates.

Work by the Contractor or his Subcontractor will not be permitted on Saturdays, Sundays or Holidays after the specified completion date.

The Owner reserves the right to instruct the Contractor to delay the start of construction activity in certain locations.

SC-33. UNCOVERING AND CORRECTION OF WORK: The Subcontractors or sub-subcontractors and the Contractor shall remedy any defect due to faulty materials or workmanship and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of acceptance as defined in the General Conditions, and in accordance with the terms of any special guarantees provided in the Contract.

SC-34. MISCELLANEOUS PROVISIONS: Equal Opportunity - In the hiring of employees for the performance of work under this Contract or any subcontract hereunder, no Contractor, Subcontractor, not any person acting on behalf of such Contractor or Subcontractor, shall by reason or race, creed, or color discriminate against any citizen who is qualified and available to perform the work to which the employment relates.

No Contractor, nor any person on his behalf, shall, in any manner, discriminate against or intimidate any employees hired for the performance of work under this Contract on account of race, creed, or color.

SC-35. SUSPENSION OF WORK AND TERMINATION: The Town may without cause terminate this Contract in whole or in part at any time for its convenience. In such instance, an adjustment shall be made to the Contractor, for the reasonable costs of the work performed and accepted by the Town through the date of termination. Termination costs do not include lost profits, consequential damages, delay damages, unabsorbed or under absorbed overhead of the Contractor or its Subcontractors, and/or failure to include termination for convenience clause into its Subcontractors and material purchase orders shall not expose the Town to liability for lost profits in conjunction with a termination for convenience settlement or equitable adjustment. Contractor expressly waives any claims for lost profit or consequential damages, delay damages, or indirect costs which may arise from the Town's election to terminate this Contract in whole or in part for its convenience.

The above paragraph supersedes Article 15 in the General Conditions.

SC-36. CONTRACTOR SUPERVISION: The Contractor shall provide a qualified and competent supervisor on the project site at all times during construction. The Contractor shall provide to the Town the contact information for the current onsite supervisor. The Town has the authority to request a replacement supervisor if deemed necessary.

SC-37. SUBMITTALS: Submittal Requirements - Coordinate preparation and processing of submittals in a manner as to not delay performance of the work.

Unless otherwise specified, make submittals in groups containing associated items to ensure that information is available for checking each items when it is received.

Provide permanent marking on each submittal to identify project, date, Contractor, Subcontractor, submittal type and similar information to distinguish it from other submittals. Show Contractor's executed review and approval marking and provide space for Owner's "Action" marking.

Identification - Consecutively number submittals. Accompany each submittal with a letter of transmittal containing pertinent information required for identification and checking of submittals.

When material is resubmitted for any reason, transmit under a new letter of transmittal and with new submittal number, and reference original or previous submittal number.

Timing - Make submittals far enough in advance of scheduled dates for installation to provide time required for reviews, for securing necessary approvals, for possible revisions and resubmittals, and for placing orders and securing delivery.

In scheduling, allow at least 10 calendar days for review by the Owner following receipt of the submittal.

Delays caused by tardiness in receipt of submittals will not be an acceptable basis for extension of the Contract completion date.

Distribution - Provide additional distribution of approved submittals to Subcontractors, suppliers, fabricators, installers, governing authorities and others as necessary for proper performance of the work. Include such additional copies in initial transmittal where required to receive "Action" marking before final distribution.

Review - Review by the Owner shall not be construed as a complete check, but only that the general method of construction and detailing is satisfactory.

Owners action - Approved: Work may proceed.

Approved as noted: Work may proceed, provided it complies with notations and corrections on submittal.

Disapproved, Resubmit: Do not proceed with work. Revise submittal in accordance with notations thereon, and resubmit without delay to obtain a different action marking.

Submittals Formats - Shop Drawings include specially-prepared technical data for this project, including drawings, diagrams, performance curves, data sheets, schedules, templates, patterns, reports, calculations, instructions, measurements and similar information not in standard printed form for general application to a range of similar projects.

Provide newly-prepared information, on reproducible sheets, with graphic information at accurate scale (except as otherwise indicated), with name of preparer indicated (firm name). Show dimensions and note which are based on field measurement. Identify materials and products in the work shown. Indicate compliance with standards, and special coordination requirements. Do not allow shop drawing copies to be used in the work without approval by the Owner.

- Scale and measurement - Make shop drawings accurately to a scale sufficiently large to show pertinent aspects of the item and its relationship to the work.

- Submittal – Two (2) blue prints or Xerox copies of prints; one will be returned.

Product Data - Product data shall include standard printed information on materials, products, and systems.

Collect required data into one submittal for each unit of work or system.

Mark each copy to show which choices and options are applicable to project. Include manufacturer's standard printed recommendations for application and use, compliance with standards and application of labels and seals, if any.

Maintain one set of product data (for each submittal) at project site, available for reference by Owner and others.

- At Contractor's option, provide a preliminary single-copy of product data for landscape architect's review and approval.

- Do not proceed with installation of materials, products, or systems until final copy of applicable product data is in possession of installer.

Samples - Samples include both fabricated and unfabricated physical examples of materials, products and units of work; both as complete units and as smaller portions of units of work; either for limited visual inspection or (where indicated) for more detailed testing and analysis.

Provide units identical with final condition of proposed materials or products for the work. Include "range" samples (not less than 3 units) where unavoidable variations must be expected, and describe or identify variations between units of each set. Provide full set of optional samples where Owner's selection is required.

Include information with each sample to show generic description, source or product name and manufacturer, limitations, and compliance with standards.

Samples are submitted for review and confirmation of color, pattern, texture, and "kind" by Owner. Owner will not "test" samples (except as otherwise indicated) for compliance with other requirements, which are therefore the exclusive responsibility of Contractor.

Mock-ups - are a special form of samples, which are too large or otherwise inconvenient for handling in specified manner for transmittal of sample submittals.

Comply with requirements for "samples" to greatest extent possible and process transmittal forms to provide a record of activity.

Furnish two copies of inspection and test reports where required for maintenance manuals. Furnish additional copies desired for Contractor's use.

Furnish two copies of warranties for maintenance manuals.

SC-38. PROJECT COORDINATION: Administration and Supervision - Coordinate various elements of the work and entities engaged to perform work; and coordinate the work with existing facilities/conditions, and with work by separate Contractors and by Owner.

Survey/Recording - Working from established lines and levels at or near project site, establish and maintain dependable markers for lines and levels of the work construction. Calculate dimensions and measure for layout of work; do not scale the drawings. Maintain surveyor's log of layout work. Record deviations (if any) from drawing information on existing conditions, and review with Engineer at time of discovery. Provide copy of survey log and as-built drawings to Owner at Contract completion.

Preparation for installation - Contractor shall perform complete construction staking. Contact all utilities and have all buried cable flagged prior to construction. Notify Owner of any underground obstructions that significantly affect work.

Prior to starting installation of the work, the Contractor shall hold a pre-installation conference, attended by Owner's representative, representatives of Contractors where coordination is required, to approve all aspects of work. Also, review significant aspects of requirements for the work. Record discussion and distribute a plan of action.

Require Installer of each major unit of work to inspect substrate and conditions for installation, and to report (in writing) unsatisfactory conditions. Correct unsatisfactory conditions before proceeding. Inspect each product immediately before installation. Do not install damaged or defective products, materials or equipment.

Installation - Comply with manufacturer's instructions and recommendations to extent of printed information, if more detailed or stringent than requirements contained directly in Contract Documents.

Timing - Install work during time and under conditions which will ensure best possible result, coordinated with required inspection and testing.

Anchor work securely in place, properly located by measured line and level, organized for best possible uniformity, visual effect, operational efficiency, durability, and similar benefit to Owner's use.

Mount individual units of work at proper grades, if not otherwise indicated: Refer uncertainties to Owner before proceeding.

Clearing and protection - General - Clean each element of work at time of installation. Provide sufficient maintenance and protection during construction to ensure freedom from damage and deterioration at time of substantial completion.

SC-39. QUALITY CONTROL: Quality Assurance: Required inspection and testing services are intended to assist in determination of compliance of the work with requirements, but do not relieve Contractor of responsibility for those compliances, or for general fulfillment of requirements of Contract Documents. Specified inspections and tests are not intended to limit Contractor's quality control program.

Qualification of Testing Agencies: The testing laboratory will be qualified to the Owner's approval in accordance with requirements specified in applicable sections.

Contractor's Quality Control: Contractor shall maintain a qualified, experienced superintendent on site, who in the Contractor's absence shall be his representative. Directions given to superintendent shall be as given to Contractor. Written verification will follow as necessary. Superintendent shall conduct ongoing inspections to insure Contract requirements are being met.

Require installer of each major unit of work to inspect substrate to receive work, and conditions under which work will be performed and to report (in writing to Contractor) unsatisfactory conditions. Do no proceed with the work until unsatisfactory conditions have been corrected in a manner acceptable to installer.

Discrepancies between dimensions on Drawings, the Specifications, and the existing conditions shall be referred to the Owner for adjustment before affected work is started.

Before ordering material or doing work which is dependent for proper size of installation upon coordination with site conditions, the Contractor shall verify dimensions by taking measurements at the site, and shall be responsible for the correctness of the measurements. No consideration will be given to any claim based on differences between the actual dimensions and those indicated on the Drawings.

Where installation includes manufactured products, comply with manufacturer's applicable instructions and recommendations for installation.

The Contractor shall perform the following tasks prior to installation:

a. Check to ensure that materials and products have been approved.

b. Check to ensure testing provisions have been made for required control testing.

c. Physically examine materials to ensure compliance with Drawings and Specifications.

d. Inspect each item of materials or equipment immediately prior to installation, and reject damaged and defective items.

e. Contractor shall verify that items fabricated off-site meet with specifications.

Project Conditions: Install work during conditions of temperature, humidity, exposure, forecasted weather, and status of project completion which will ensure best possible results for each unit of work, in coordination with entire work. Isolate each unit of work from non-compatible work, as required to prevent damage or deterioration.

Coordinate enclosure (covering) of work with required inspections and tests, so as to minimize necessity of uncovering work for that purpose.

Installation: Provide attachment and connection devices and methods for securing work properly as it is installed; true to line and level, and within recognized industry tolerances if not otherwise indicated. Allow for expansions and movements. Provide uniform joint widths in exposed work, organized for best possible visual effect. Refer questionable visual-effect choices to Owner for final decision prior to continuing work.

Where mounting heights are not indicated, mount individual units of work at industry-recognized standard mounting heights for applications indicated. Refer questionable mounting height choices to Owner for final decision.

Field Quality Control: Representative of the testing laboratory shall have access to the work at all times. Provide facilities for such access in order that the laboratory may properly perform its function.

Specimens and samples for testing, unless otherwise provided in the Contract Documents, will be taken by the testing personnel. Sampling equipment and personnel will be provided by the testing laboratory. Deliveries of specimens and samples to the testing laboratory will be performed by the testing laboratory.

SC-40. QUALITY ASSURANCE: In addition to the standards described in this Section, comply with pertinent requirements of governmental agencies having jurisdiction.

Complete installation of temporary lighting and electrical work shall be in accordance with National Electrical Code.

ANSI Standards: Comply with applicable provisions of ANSI A10 Series standards on construction safety.

Obtain and pay for required inspections, permits, and fees for temporary utilities. Provide notices required by governmental authorities. File drawings necessary to obtain permits.

SC-41. PROJECT CONDITIONS: Make required connections to existing utility systems with minimum disruption to services in the existing utility systems. When disruption of the existing service is required, do not proceed without the utility company's approval and, when required, provide alternate temporary service.

SC-42. TEMPORARY UTILITIES: Temporary connections to existing permanent service lines shall be made at locations as directed by the Owner and local authorities having jurisdiction.

Install, operate, maintain, and protect temporary facilities in a manner and at locations which will be safe, non-hazardous, sanitary, and protective of persons and property, and free of harmful effects.

If Contractor fails to correctly install temporary services, he shall be held responsible for resultant damages.

Where a service of a type other than those described below is required, the Contractor shall provide the service and necessary equipment at his own expense.

Terminate use and remove facilities at earliest reasonable time, when no longer needed or when permanent facilities have, with authorized use, replaced the need. No temporary systems shall form a part of the permanent systems. Remove temporary facilities, including connections and debris, resulting from temporary installation.

Restore to original condition permanent service lines, grounds, and buildings disturbed or damaged by the installation and removal of temporary service lines.

SC-43. LIGHTING AND ELECTRICAL SERVICE: Provide necessary temporary electrical service as required to meet project electrical requirements at the job site until final acceptance.

Extend temporary service from existing public utility service. Provide meter and extend service with panel (including disconnect) to site location indicated on Drawings.

Provide adequate capacity to power construction tools and equipment required to complete the Project.

Cost of electricity shall be paid by the Contractor.

Provide and pay for portable electric generators to meet temporary electrical needs during construction operations.

Extension of service from temporary panel shall be the responsibility of each trade requiring service.

SC-44. WATER: Water for construction purposes may be obtained from the nearest Public Service District's present facilities; with their permission. Contractor shall be responsible for extending lines from source, for making connections, and paying all associated fees as required.

SC-45. FIRE PROTECTION: Keep flammable material at an absolute minimum and ensure that such material is properly handled and stored.

Open fires shall not be built or open salamanders used unless constantly manned with extinguishing equipment until final extinguishing.

SC-46. PROTECTION OF WORK AND PROPERTY: Maintain adequate protection of work from damage and protect Owner's property from injury or loss arising in connection with this Contract. Contractor shall be responsible for making required repairs.

Locate, protect, and maintain bench marks, monuments, control points and project engineering reference points. Re-establish disturbed or destroyed items at Contractor's expense.

Furnish, erect, and maintain lights, signs, fences, enclosures, barricades, guards, railings, trench covers, and other means required by law or deemed appropriate to protect work and persons.

Roadways, fences, concrete walls, utilities, and other dwelling infrastructure within the work area and access route shall be protected by the Contractor to prevent damage thereto by the Contractor's operations.

SC-47. DISPOSAL OF WASTE MATERIALS: The Contractor will dispose of all material generated or removed under this Contract in accordance with any Federal, State and local regulations at an approved legal disposal or recycling facility or site.

The Contractor will have the responsibility of removing material from the work area, transporting it to a licensed landfill or other facility that has been previously approved in writing by the Owner. All vegetation, trash, debris, sediment, and other material removed from the work area must be transported and disposed of legally.

Disposal of vegetative waste, debris, sediment and other material into a channel, watercourse, storm drain system, or sanitary sewer system is prohibited. Burning or burying of materials onsite will not be permitted

All debris stockpiled for purposes of drying out must be removed and hauled off within 24 hours of stockpiling. Care must be taken not to track or drip mud onto any adjacent street. Any mud, dirt, debris, or other material that is deposited onto the roadway during the execution of this Contract must be thoroughly removed from the road surface by 5:00 p.m. of each work day.

The Contractor will supply all disposal receipts to the Town with their corresponding invoice. The disposal receipts shall reference the relevant Job Order(s) associated with the receipt. If items are recycled, the Contractor must obtain approval by the Town prior to recycling the items. The Contractor must provide to the Town proper documentation of the end destination of all materials removed from the site. The Contractor will not be paid for disposal unit items if proper documentation is not provided to the Owner. In addition, if the Contractor is regularly unable to provide proper documentation of proper disposal of waste material, the Owner may cancel the Contract.

SC-48. DUST CONTROL: Control dust caused by the work. Dampen surfaces as required. Comply with pollution control regulations of governing authorities.

SC-49. EROSION AND SEDIMENTATION CONTROL: Contractor shall be responsible for soil erosion and sedimentation originating from project site and shall take precautions to prevent potential erosion and sedimentation.

Erosion and sedimentation control shall comply with local codes and regulations.

Protective measures shall be in effect until completion of work.

Areas of bare soil left uncovered longer than 2 weeks shall receive temporary seeding, pinestraw, mulch, or other means of erosion control approved by Owner.

Final seeding shall be done as soon as feasibly possible.

Acceptable erosion control measures shall be used where sediment is evidenced leaving the site.

Contractor shall clean streets, pipes, storm drains, and private property of sediment originating from site daily.

SC-50. SURFACE WATER CONTROL: Excavations shall be kept free of water. Presence of groundwater shall not increase Contract price. Groundwater shall be managed as necessary to complete the work and meet compaction requirements. Surface water/stormwater runoff on the construction site shall be managed to avoid any adverse impacts to adjoining or upstream/downstream properties. Adjoining properties shall be kept free of surface water runoff originating from construction site during construction period. The Contractor is responsible for any damages to adjoining properties caused by inadequate water management on the construction site.

SC-51. PROJECT IDENTIFICATION AND SIGNS: Signs of advertisements shall not be displayed without Owner's approval and approval of local governing agencies.

Project sign design shall be approved by Owner.

SC-52. MATERIALS AND EQUIPMENT:

Submittals: All submittals and substitutions shall be in accordance with Article 6 of the General Conditions.

Quality Assurance: In procuring items in this work, it is the Contractor's responsibility to verify the detailed requirements of the specifically named codes and standards and to verify that the items procured for use in this Work meet or exceed the specification requirements.

The Owner reserves the right to reject items incorporated into the work which fail to meet the specified minimum requirements. The Owner further reserves the right, and without prejudice to other recourse the Owner may take, to accept non-complying items subject to an adjustment in the Contract Amount as approved by the Owner.

It is also the Contractor's responsibility, when so required by the Contract Documents to deliver to the Owner all required proof that the materials and/or workmanship meet or exceed the requirements of the specifically named code or standard. Such proof shall be in the form requested in writing by the Owner.

Certificates of Compliance: Show on each certification the name and location of the work, name and address of Contractor, quantity and date or dates of shipment or delivery to which the certificate applies, and name of the manufacturing or fabricating company. Certification shall be in the form of letter or company-standard forms containing required data.

In addition to the above information, laboratory test reports submitted with Certificate of Compliance shall show the date or dates of testing, the specified requirements for which testing was performed, and results of the test.

Delivery, Storage and Handling: Deliver, store and handle products in accordance with manufacturer's recommendations and by methods and means which will prevent damage, deterioration, and loss including theft.

Control delivery schedules to minimize long-term storage of products at site and overcrowding of construction spaces. In particular, provide delivery/installation coordination to ensure minimum holding or storage times for products recognized to be flammable, hazardous, easily damaged, or sensitive to deterioration, theft, and other sources of loss.

Materials storage area will be designated on drawings or be selected by Owner.

Warranties (Guarantees): Warranties on the work are in several categories, including those of General Conditions, and including (but not necessarily limited to) the following specific categories related to individual units of work specified in these specifications.

Special Project Warranty: A warranty specifically written and signed by Contractor for a defined portion of the work; and, where required, countersigned by Subcontractor, installer, manufacturer, or other entity engaged by Contractor.

Specified Product Warranty: A warranty which is required by Contract Documents, to be provided for a manufactured product incorporated into the work, or has written and executed a special project warranty as a direct result of Contract Document requirements.

Coincidental Product Warranty: A warranty which is not specifically required by Contract Documents, but which is available on a product incorporated into the work, by virtue of the fact that manufacturer of product has published warranty in connection with purchases and uses of product.

General Limitations: This section shall not be misconstrued to require the Contractor to provide warranties beyond the manufacturer’s warranty period.

It is recognized that specific warranties are intended primarily to protect Owner against failure of the work to perform as required, and against deficient, defective, and faulty materials and workmanship, regardless of sources. Except as otherwise indicated, specific warranties do not cover failures in the work which result from:

a. Unusual and abnormal phenomena of nature.

b. The Owner's misuse, maltreatment, or improper maintenance of the work after Contractor's maintenance period has been completed.

c. Vandalism after time of substantial completion.

Damages or Losses: In connection with Contractor's correction of warranted work which has failed, remove and replace other work of project which has been damaged as a result of such failure, or must be removed and replaced to provide access for correction of warranted work.

Except as otherwise indicated or required by governing regulations, special project warranties and product warranties are not extended to cover damage to building contents (other than work of Contract) which occurs as a result of failure of warranted work.

Except as otherwise indicated, when work covered by a special project warranty or product warranty has failed and has been corrected by the replacement or restoration, reinstate warranty by written endorsement for a period of time equal to original warranty, starting on date of acceptance of replaced or restored work.

Except as otherwise indicated, costs of replacing or restoring failing warranted units or products is Contractor's obligation, without regard for whether Owner has already benefited from use through a portion of anticipated useful service lives.

Owner reserves the right, at time of substantial completion or thereafter, to reject coincidental product warranties submitted by Contractor, which in opinion of Owner tend to detract from or confuse interpretation or requirements of Contract documents.

Do not purchase, subcontract for, or allow others to purchase or subcontract for materials or units of work for project where a special project warranty, specified product warranty, certification or similar commitment is required, until it has been determined that entities required to countersign such commitments are willing to do so.

Where a special project warranty (guarantee) or specified product warranty is required, prepare a written document to Contract terms and appropriate identification, ready for execution by required parties. Submit draft to Owner with copy to Engineer for approval prior to final executions.

Project Compliances: The compliance requirements, for individual products as indicated in Contract Documents, are multiple in nature and may include generic, descriptive, proprietary, performance, prescriptive, compliance with standards, compliance with codes, conformance with graphic details, and other similar forms and methods of indicating requirements, all of which must be complied with. Also "allowances" and similar provisions of Contract Documents will have a bearing on selection process.

Where more than one choice is available as options for Contractor's selection of a product or material, select an option which is compatible with other products and

materials already selected (which may have been from among options for those other products and materials). Total compatibility among options is not ensured by limitations within Contract Documents, but must be provided by Contractor. Compatibility is a basic general requirement of product/material selections.

Provide products which comply with requirements, and which are undamaged and unused at time of installation, and which are complete with accessories, trim, finish, safety guards, and other devices and details needed for complete installation and for intended use and effect.

Standard Products: Where available, provide standard products of types which have been produced and used previously and successfully on other projects and in similar applications.

Continued Availability: Where additional amounts of a product, by nature of its application, are likely to be needed by Owner at a later date for maintenance and repair or replacement work, provide a standard product which is likely to be available to Owner at such later date.

Except as otherwise indicated for required approval labels, and operating data, do not permanently attach or imprint manufacturer's or producer's nameplates or trademarks on exposed surfaces of products which will be exposed to view either in occupied spaces or on exterior of the work.

Labels: Locate required labels and stamps on a concealed surface or, where required for observation after installation, on an accessible surface which, in occupied spaces, is not conspicuous.

Provide permanent nameplate in each item of service-connected or power operated equipment. Indicate manufacturer, product name, model number, serial number, capacity, speed, ratings, and similar essential operating data. Locate nameplates on an easily accessed surface which, in occupied spaces, is not conspicuous.

Contractor's options for selecting products are limited by Contract Documents, tradition or procedures experienced by Contractor on previous construction projects. Required procedures include, but are not necessarily limited to, the following for various indicated methods of specifying.

Provide product indicated, except advise Owner before proceeding, where known that named product is not a reasonable or acceptable selection.

Provide one of the named products, at Contractor's option; but excluding products which do not comply with requirements. Do not provide or offer to provide an unnamed product, except where none of named products comply with requirements or are a feasible selection; advise Owner before proceeding.

Where named products in specifications text are accompanied by the term "or equal", or other language of similar effect, comply with "substitutions" procedures below for obtaining approval (by Change Order) to provide an unnamed product.

Except as otherwise indicated, named is defined to mean manufacturer's name for product, as recorded in published product literature, of latest issue as of date of Contract Documents. Refer request to use products of later (or earlier) model to Owner for acceptance before proceeding.

Where only compliance with an imposed standard, code, or regulation is required, selection from products which comply with requirements including those standards, codes, and regulations, is Contractor's option.

Provide products which comply with specific performances indicated, and which are recommended by manufacturer (in published product literature or by individual certification) for application indicated. Overall performance of a product is implied where product is specified with only certain performance requirements.

Provide products which have been produced in accordance with prescriptive requirements, using specified ingredients and components, and complying with specified requirements for mixing, fabricating, curing, finishing, testing, and similar operations in manufacturing process.

Where matching with an approved sample is required, final judgment of whether a product proposed by Contractor matches approved samples satisfactorily is Owner's judgment. Where no product within specified cost category is available, which matches sample satisfactorily and complies with requirements, comply with "substitutions" procedures below for selection of a matching product outside established cost category or, of a product not complying with requirements.

Except as otherwise indicated, where specified product requirements include "...as selected from Manufacturer's standard colors, patterns, textures..." or words of similar effect, the selection of manufacturer and basic product (complying with requirements) is Contractor's option, and subsequent selection of color, pattern, and texture is Owner's selection. Where specified product requirements include "...as selected from standard colors, patterns, textures available within the industry...", or words to that effect, selection of product (complying with requirements, and within established cost category) is Owner's selection, including designation of manufacturer where necessary to obtain desired color, pattern, or texture.

<u>Substitutions After Contract Award:</u>

Procedures: Drawings, specifications, samples, manufacturer's literature, performance data, etc. shall accompany requests for substitutions. Burden of proof shall be on Contractor.

Permission to effect change shall be by Change Order. Permission shall not relieve Contractor, Subcontractor, manufacturer, fabricator, or supplier from responsibility for any deficiency that may exist in substituted product, or for any departures or deviations from requirements of Contract Documents as modified by such Change Order.

Unless specifically qualified, Contractor shall warrant by his request that proposed substitute product will satisfy standards and requirements satisfied by originally specified project. Change Order shall not be deemed to modify Contract Documents with respect, thereto.

If substitution affects a correlated function, adjacent construction, or work of other trades or Contractors, the necessary changes and modifications to affected work shall be considered essential work and included as part of proposed substitution, without additional expense.

Conditions: Contractor's request for substitution will be received and considered when extensive revisions to Contract Documents are not required and changes are in keeping with general intent of Contract Documents; when timely, fully documented and properly submitted; and when one or more of following conditions is satisfied, all as judged by Owner.

Where request is directly related to an "or equal" clause or other language of same effect in Contract Documents.

Where required product, material, or method cannot be provided within Contract time, but not as a result of Contractor's failure to pursue the work promptly or to coordinate various activities properly. When a specified product is not available, proof must be submitted that firm orders were placed within 14 days following Contract awards, or if unavailability is due to a strike, lockout, bankruptcy, discontinuance by manufacturer of product or natural disaster.

Where required product, material, or method cannot be provided in a manner which is compatible with other materials of the work, or cannot be properly coordinated therewith, or cannot be warranted as required, or cannot be used without adversely affecting Owner's insurance coverage on completed work, or will encounter other substantial non-compliance which are not possible to otherwise overcome except by making requested substitution, which Contractor thereby certifies to overcome such non-compatibility, non-coordination, non-warranty, non-insurability, or other non-compliance as claimed.

Where required product, material, or method cannot receive required approval by a governing authority, and the requested substitution can be so approved.

Where substantial advantage is offered Owner, in terms of cost, time, energy conservation, or other valuable considerations, after deducting offsetting responsibilities Owner may be required to bear, including additional compensation to Engineer for redesign and evaluation services, increased cost of other work by Owner or separate Contractors, and similar considerations.

SC-53. PROJECT MEETINGS:

Description: To enable orderly review during progress of the work, and to provide for systematic discussion of problems, the Owner may conduct project meetings throughout the construction period.

The Contractor's relations with his Subcontractors and materials suppliers, and discussions relative thereto, are the Contractor's responsibility.

Submittals: To the maximum extent practical, advise the Owner at least two (2) days in advance of project meetings regarding all items to be added to the agenda.

Meetings: Except as noted below for Pre-construction Meeting, project meetings will be scheduled at times mutually agreed upon by Owner and Contractor.

To the maximum extent practicable, meetings will be held at the job site.

Persons designated by the Contractor to attend and participate in the project meetings shall have all required authority to commit the Contractor to solutions agreed upon in the project meetings. The Owner will prepare scheduling and agenda and will oversee the meetings.

Pre-Construction Meeting: Pre-construction meetings will be scheduled within 10 days after the Owner has issued Notice to Proceed, but must occur prior to mobilization. Provide attendance by authorized representatives of the Contractor and all major Subcontractors. The Owner shall advise other interested parties and request their attendance.

Meeting Agenda: Distribute data on and discuss the following:

a. Organization of Contractor's Subcontractors and personnel, and those of materials suppliers, and Engineer.

b. Channels and procedures for communications.

c. Construction schedule, including sequence of critical work.

d. Contract Documents, including distribution of required copies of original documents and revisions.

e. Compliance with plans and specifications.

f. Any interpretations, conflicts or omissions in plans and specifications requested by Contractor.

g. Processing of Shop Drawings and other data submitted to the Owner.

h. Processing of field decisions and Change Orders.

i. Payment procedures.

j. Utility coordination.

k. Construction Limits / Private Property.

l. Rules and regulations governing performance of the Work.

m. Procedures for safety and first aid, security, quality control, housekeeping, and other related matters.

n. Responsibility for locating existing utilities and for damage to existing utilities. Time schedule for relocation of utilities, if required.

o. Traffic control.

p. Substitutions of materials or methods.

Progress Meeting: The Owner shall require each entity then involved in planning, coordination or performance work to be properly represented at each meeting. Review each entity's present sequences, deliveries, access, site utilization, temporary facilities and services, hours of work, hazards and risks, housekeeping, and change orders.

Agenda to include, but not limited to:

a. Review minutes and directives of previous meeting.

b. Review progress of work since last meeting, including status of submittals for approval.

c. Identify problems in critical path.

d. Develop corrective measures and procedures to regain critical path.

e. Review quantities of work completed and materials stored for payment requests.

f. Review Traffic Control.

SC-54. FIELD ENGINEERING: Calculate and measure required dimensions as shown (within recognized tolerances if not otherwise indicated).

Do not scale drawings to determine critical dimensions.

Advise Subcontractors performing the work, of marked lines and levels provided for their use in layout of work.

Surveys and Records/Reports: Work from lines and levels established by property survey, and as shown in relation to the work, establish and maintain bench marks and other dependable markers to set lines and levels for the work and elsewhere on site as needed to properly locate each element of entire project.

Any changes in the work shall be in accordance with Article 10 of the General Conditions.

SC-55. CLAIMS AND DISPUTE RESOLUTION: Contractor shall notify the Owner in writing within five (5) calendar days of the date any dispute or claim occurs or is discovered, that may arise in the course of this Agreement.

Only the Owner has the authority to resolve Agreement disputes or claims. The Owner will not automatically agree to arbitration or other means to resolve disputes or claims.

The above paragraph supersedes Article 16 in the General Conditions.

SC-56. SOUTH CAROLINA LAW CLAUSE: The person, partnership, association, or corporation with whom this Agreement is made must comply with local and State laws which require such person or entity to be authorized and/or licensed to do business in the Town. Notwithstanding the fact that applicable statutes may exempt or exclude the successful Offeror from requirements that it be authorized and/or licensed to do business in the Town, by submission of this signed Agreement, the Contractor agrees to subject itself to the jurisdiction and process of the Fourteenth Judicial Circuit Court of Beaufort County, as to all matters and disputes arising or to arise under this Agreement and the performance thereof including any questions as to the liability for taxes, licenses or fees levied by State or local government.

SC-57. KICKBACKS: It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a Subcontractor under an Agreement

with the Town to the prime Contractor or higher tier Subcontractor, or any person associated therewith, as an inducement for the award of a Subcontractor order.

SC-58. GRATUITIES: It shall be unethical for any person to offer, or give, or agree to give any Town employee or former Town employee, or for any Town employee or former Town employee to solicit, demand, accept, or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement, or an Agreement, or to any solicitation or proposal therefore.

SC-59. NONRESIDENT TAXPAYERS: If the Contractor is a South Carolina nonresident taxpayer and the Agreement amount is $10,000 or more, the Contractor acknowledges and understands that in the event he is awarded an Agreement he shall submit a Nonresident Taxpayer Registration Affidavit (State form #1-312-6/94), before a Contract can be signed. Affidavit must certify that the nonresident taxpayer is registered with the SC Department of Revenue or the SC Secretary of State's Office, in accordance with Section 12-9-310(A)(2)(3) of the SC Code of Laws (1976) as amended.

SC-60. OFFICIALS NOT TO BENEFIT: No Town Council member or Commissioner of the Town, Town employee, or official shall be admitted to any share or parts of this Agreement or to any benefit that may arise therefrom. All Offerors shall adhere to all provisions of the South Carolina Ethics Act.

SC-61. CONSTRUCTION SCHEDULE AND PROCEDURES: The Contractor shall submit to the Town and Engineer for approval at least ten (10) days prior to the Contract execution, a practicable critical path method construction schedule based on calendar days and the major tasks involved, and a methodology statement for prosecution of the work. No work on site shall begin until the schedule is approved in writing by the Town.

The Contractor shall continually update a construction schedule for the work and a sequence of operations he intends to take in doing the work. Each such schedule shall be subjected to review and change during the progress of the work at the request of the Town and Engineer.

SC-62. STAGING AREAS: The Town will provide a centrally located materials and equipment staging area for work under this Contract. The Town shall be responsible for all permits required of the staging site. The Contractor must sign a Right of Entry agreement with the Town pursuant to their use of the site. The Contractor may only use the site for work being done under this Contract, unless

otherwise allowed by the Town in writing. The Town will coordinate with the general managers for additional staging areas that may be needed on Planned Unit Development (PUD) projects. The staging areas shall be kept neat and orderly and restored at the end of their use as per the conditions of the Right of Entry.

SC-63. ACCESS TO PUDS: The Town shall be responsible to contact each PUD to advise them that the Contractor is under Contract for stormwater construction, maintenance and repair, and coordinate with them to handle security clearance and the best way to access and stage for PUD projects. Except in the case of an emergency response as directed by the Town, all work within a PUD may only commence after the Town has provided proper notification to the PUD. Each PUD may mandate specific work hours. The Job Order will reflect the work hours approved by the PUD.

SC-64. ADDITIONAL SERVICES: Any additional services or work to this Agreement will be negotiated by a separate amendment to this Agreement with a specific cost, scope of services/work and completion date.

EXHIBIT C

PROJECT SPECIAL PROVISIONS

SCOPE OF WORK

Work performed under this Contract will consist of construction, maintenance and repair of stormwater infrastructure within the limits of the Town of Hilton Head Island, South Carolina.

Individual projects will vary in size, location, value, and duration. Each project will be issued using a project specific Job Order. Payment will be made on the basis of the actual quantities and unit items satisfactorily completed in accordance with the Contract requirements.

The majority of work that will be completed under this Contract will be smaller maintenance and repair work for stormwater infrastructure, which may typically involve sinkhole repair, shallow (< 6' deep) and smaller storm pipe installation/replacement (< 36" diameter), installation/replacement/repair of drainage inlets, drainage ditch excavation, asphalt/concrete patching, etc. Work that may be completed under this Contract includes larger construction projects and may typically involve larger storm pipe installation/replacement (≥ 36" diameter), maintenance/repair/replacement of deeper storm drain systems (≥ 6' deep), lagoon dam repair, and may require the use of temporary shoring walls, trench boxes, diving services for temporary pipe plugs, well-point systems, etc. The Contractors have the ability to state their preference in the type of work they are interested in performing under this Contract (i.e. smaller projects, larger projects, or both) by completing the Proposal Questionnaire. However, by choosing a preference, this does not exclude the Contractor from the opportunity to perform any particular Job Order or type of work, but it will allow the Town the ability to assign work appropriately based on Contractor preference.

The Contractor shall have sufficient resources (e.g. personnel, equipment, etc.) and availability to work on multiple construction projects simultaneously for the life of the Contract.

The Contractor may be asked to respond to and/or assist with emergency requests. If the Town is unable to secure the area, the Town would expect the Contractor at a minimum to secure the impacted area/public hazard temporarily (i.e. temporary signage, barriers, lane closures, etc.) at its earliest convenience until such time the Job Order could be issued for a Contractor to perform the construction work.

The Town anticipates grouping smaller planned projects together to minimize mobilization for the Contractor, as well as, allowing the Contractor longer performance periods to complete these grouped projects.

The Town may divide larger projects into smaller scopes of work, if it is determined to be advantageous to the Town to do so (e.g. the Town issues a Job Order to one Contractor for major underground stormwater repairs, but issues a separate second Job Order to a different Contractor, or utilizes proper procurement methods, for the paving portion of the project). This is intended to alleviate any Subcontractor coordination issues or delays for the primary Job Order. The

Contractor(s) must have the ability to perform, or subcontract, all work associated with the line items listed in the Unit Cost Schedule.

GENERAL REQUIREMENTS

The Contractor shall furnish all labor, materials, supplies, equipment, fuel and other appurtenances necessary to provide stormwater construction, maintenance and repair as described in the Scope of Work and specific Job Orders. The Contractor is responsible for removal and appropriate legal disposal of all associated debris and waste materials.

NOTIFICATION

The Contractor shall notify the Owner at least 48 hours prior to starting work. If proper notification is not given to the Owner, the Contractor may be required to demobilize and remobilize at the Contractor's expense.

Contractor shall notify nearby residents and businesses at least 48 hours prior to starting work.

The presence or absence of the Engineer or the Engineer's representative shall not relieve the Contractor of his responsibility to properly execute the work in accordance with these specifications and the Plans of each Job Order. The Engineer may order any element of the work uncovered as specified in the General Conditions.

The Engineer shall notify the Contractor of any observed non-compliance with the Plans and specifications and/or applicable Federal, State or local laws and regulations, promptly upon discovery. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or his authorized representative, shall be deemed sufficient. If the Contractor fails or refuses to comply promptly, the Engineer may issue an order stopping all or part of the work until satisfactory corrective action has been taken.

PERFORMANCE REQUIREMENTS

All work will be completed in a professional workmanlike manner in accordance with the requirements and provisions specified herein. The Contractor shall work closely with the Town of Hilton Head Engineering Division to assure quality control.

The Contractor shall employ workers who are competent, qualified and properly trained to perform the required work. Employees of the Contractor shall not be considered employees of the Town of Hilton Head Island.

Use adequate numbers of skilled workers who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and methods needed for proper performance of the work.

Use equipment adequate in size, capacity, and numbers to accomplish the work in a timely manner.

The Contractor shall be responsible for coordinating, scheduling and supervising all work activities to assure compliance with all requirements specified herein. All work is subject to inspection by the Town for compliance with these specifications. All incomplete or improperly performed work shall be rectified immediately. Any repeated failure to correct noted deficiencies may result in cancellation of this Contract.

Monitor quality control over suppliers, manufacturers, products, services, site conditions, and workmanship, to produce work of specified quality.

PROJECT

A Project shall be defined as the construction to be performed at a specific work location via a specific Job Order.

PROJECT PERIOD

The Project Period shall be defined as the number of calendar days established by the Engineer in consultation with the Contractor to complete a Project as identified in the specific Job Order.

PROJECT NOTICE TO PROCEED

The Project Notice to Proceed shall be defined as a written notice to proceed (i.e. Job Order) to work on a project at a specific location with a specific scope of work. Issuance of the Project Notice to Proceed will begin the Project Period.

PROJECT LIQUIDATED DAMAGES

Liquidated damages will be Job Order specific and may be assessed for each day required to complete the work past the Substantial Completion deadline. Work by the Contractor or his Subcontractor will not be permitted on Saturdays, Sundays or Holidays after the specified completion date.

YEARLY UNIT PRICES ADJUSTMENT:

Unit prices may be adjusted annually through the period of the Contract and any Contract renewals. The Unit Price Adjustment Date shall be defined as the one-year anniversary date of the original Contract Notice to Proceed. Ninety (90) days prior to the Unit Price Adjustment Date, the Contractor must request in writing any proposed adjustments to the Contract unit prices in effect, for consideration by the Town. Any requests to adjust Contract unit prices must be properly justified by the Contractor. Any adjustments to unit prices will be based on the Engineering News Record, Construction Cost Index, unless otherwise approved by the Engineer. Any adjustments to unit prices must be approved in writing by the Town.

If there is an unforeseen change in operational or material costs to the Contractor due to the economy or forces beyond their control, and where the Contractor does not believe they can continue to operate at the Contractual Unit Prices for the one year period without acquiring a monetary loss, the Town may consider adjustments to the Contract Unit Prices prior to the end of

the Contract year. The Contractor must submit a request in writing any proposed adjustments to the Contract Unit Prices in effect, with sufficient justification and documentation, for consideration by the Town. Any adjustments to unit prices must be approved in writing by the Town and agreed to by both the Town and the Contractor.

NON-CONTRACTUAL UNIT ITEMS AND PRICES:

The Town understands that the Unit Cost Schedule is not all-inclusive of labor, material, and other resources necessary for the completion of the services performed under this Contract, and that additional services may occasionally be necessary. Any such additional services will be negotiated as needed for each particular Job Order, and the negotiated rate will remain in effect for the duration of the Job Order. Rates/charges for additional services may be changed from one Job Order to another, but are subject to the Town's review and approval. The Town reserves the right to solicit cost information for such additional services from other Contractors, and may award the work to another Contractor at its convenience. Any additional services that are performed without the Town's prior written authorization will not be reimbursable. The Contract shall be amended to include new items as deemed necessary by the Town.

All non-contractual subcontracted work (i.e. items not listed in the Unit Cost Schedule) will be paid for by the Town at the Subcontractor's Cost of Work plus a fee, according to the Exhibit A-General Conditions. Any proposed subcontracted work must be submitted to the Town via an estimate provided by the Subcontractor prior to the subcontracted work being approved in writing by the Town. The Subcontractor costs in the estimate must be inclusive of all direct and indirect costs associated with completing the work, including, but not limited to, mobilization, equipment, labor, and fuel costs.

CREW

A construction crew shall be defined as the assemblage of a supervisor, workers and equipment that are assigned to each specific project location.

EQUIPMENT

The Contractor is responsible to purchase and otherwise provide all equipment, materials, and labor required to complete the work specified herein.

All tools and equipment shall be appropriate for the task performed and shall be maintained in a safe and good working condition. If the equipment is not in proper working condition, work shall be suspended until the deficiencies are addressed.

ORDER OF WORK

The Town will request work from a Contractor by means of a "Job Request" and will establish a project scope of work, site and priority. The project scope of work will be a general description of the desired work, provided with the goal of assisting the Contractor with the allocation of labor, equipment, and materials. Generally, the project site will consist of a single location; however,

the project site may consist of multiple locations, whenever necessary to reduce the number of mobilizations for multiple project locations within close proximity of each other. When several projects are grouped together, the Town anticipates allowing the Contractor longer performance periods to complete the work. Job Requests can be submitted to multiple Contractors for a competitive process, or can be issued to only one Contractor, at the discretion of the Town.

Once a Job Request is received, the Contractor will submit a written "Work Plan" with a brief description of the work, an itemized quote, an estimate of the project's completion date, a brief description of the necessary mobilization and justification for additional costs if greater than the minimum 5%), a brief description of the proposed traffic control measures (justification must be provided for the traffic control costs), and any sketches, photographs, maps, records or additional information to explain the order and methodology by which the Contractor plans on completing the work.

The Town will review the Work Plan, and will approve, reject, or amend it as quickly as possible. The Town reserves the right to utilize the entirety or any portion of the Contractor's Work Plan, and the Town may add, omit, or modify items and quantities at its discretion. If the Work Plan is amended or is approved as submitted, the Town will issue a Job Order, which will serve as the Contractor's Notice to Proceed for the project. If a Work Plan is rejected, the Town will generally allow the Contractor to revise and resubmit its Work Plan. However, the Town reserves the right to solicit a Work Plan and/or cost estimate from another Contractor, and may award the project, or portions of the project, to another Contractor, at its convenience.

The Contractor shall not begin work at the project site until a Job Order, in conjunction with the approved Work Plan, are issued by the Owner. Furthermore, the Contractor is advised to delay its preparatory activities (e.g. purchase of materials, mobilization) until after it receives a Job Order. The Town shall not be held liable for any costs or damages associated with the Contractor's premature actions.

REPORTS, RECORDS, AND DATA

The Contractor shall submit to the Town such reports, records and other data as may be requested concerning work performed or to be performed under this Contract.

OPERATION OF EQUIPMENT

At all times, the Contractor shall operate their equipment in a safe manner as not to create a hazard to personnel, citizens, or private or public property.

All equipment, machinery and materials will be operated within the established rights-of-way or easements held by the Town of Hilton Head Island.

The equipment shall not be left overnight or at other times when work has been suspended, unless approved by the Town.

TRANSPORT OF MATERIALS

All materials must be properly and legally transported in a manner as not to cause pollution, damage, or material loss. The method of transporting construction materials to and from the work areas shall be by truck or other means acceptable to the Owner. The Contractor's truck traffic route(s) is (are) subject to the approval of the Owner.

The Contractor shall submit in writing to the Owner for review and approval all intended disposal sites and haul routes to be used for all material removed under this Contract, prior to removal at each work area location.

Contractor will provide watertight conveyance for any liquid, semi liquid, or saturated solids which tend to bleed during transport. No liquid loss from transported materials will be permitted.

ADDITIONAL SERVICES

No additional work or deviation from the original Job Order shall be allowed without written approval from the Engineer. When the scope of additional services warrants, a written proposal shall be submitted by the Contractor for review and written acceptance by the Town. Additional services shall only be performed on a “time and materials” basis when conditions so warrant.

Work requested by a private property owner that is not part of the approved sketch drawings/specifications must be separately contracted between the property owner and the Contractor. Any additional work agreed upon and completed by the Contractor for the property owner shall not begin until all Town work has been completed and accepted. The Contractor shall not suggest or recommend additional work to the property owners during the performance of the work contracted with the Town. Separate work for a property owner completed by the Contractor that is not part of the approved Job Order will not be paid for by the Town.

SP-1, JOB ORDER MOBILIZATION:

1.0 Description:

Work covered by this special provision consists of preparatory work and operations which must be performed, mobilizing equipment and personnel to the job site, or for costs incurred prior to beginning work on a Job Order. This shall also include the Designated Representative’s time required to prepare Job Order estimates and quotes. The mobilization will be defined according to SCDOT Specification Section 103.10 Mobilization. Mobilization for Subcontractors will be paid for according to Exhibit A – General Conditions.

2.0 Payment:

Payment for the item Job Order Mobilization will be at a lump sum unit rate, with a minimum mobilization fee of $500 or 5% of the Final Job Order Cost, whichever is larger. The mobilization costs are negotiable up to 15% of the Final Job Order Cost, but must have sufficient justification, documentation and proof provided by the Contractor prior to Job Order issuance that additional mobilization costs are necessary beyond the 5% minimum.

If the Contractor is forced to demobilize and then remobilize due to a Change Order, the Change Order shall include a mobilization fee based on the aforementioned thresholds. The Town will not pay for any additional mobilization charges if the Contractor is demobilized and has to remobilize due to their own deficiencies.

Payment will be made under:

SP-1 JOB ORDER MOBILIZATION .....LS

Final Job Order Cost $0.01-$99,999.99 Mobilization ($500 or 5% min. negotiable up to 15%) LS

SP-2, SELECTIVE TREE REMOVAL:

1.0 Description:

Work covered by this special provision includes the removal and disposal of trees, bushes, and stumps as directed by the Engineer and in accordance with the provisions of these specifications.

This item includes all elements of work and equipment required to complete the project including but not limited to, climbing, tying-off, cutting and lowering limbs, grinding brush and stumps, and removing from site as directed by the Engineer. Removal of trees with diameters larger than 36 inches will be paid for based on negotiated time and materials. Where the Engineer deems that the removal of a tree(s) poses a hazard to property or man-made features such as buildings, utilities, or roadways, the tree removal will be paid for based on negotiated time and materials.

2.0 Removal Methods:

(A) Trees, Bushes, and Stumps:

Tree and bush removal shall be accomplished by current industry standard methods. Stumps shall be removed to a minimum depth of 2 feet below the natural ground surface, unless otherwise directed by the Engineer. When only a stump is removed, it will be measured across the top and paid at 50% of the price for that size tree. When the scope of trimming of vegetation extends over a watercourse, the vegetation shall be trimmed to allow a canopy to remain intact at an angle of 45 degrees from the top of bank upward toward the center of the watercourse flow line

(B) Disposal:

All trees, bushes, stumps, and undergrowth removed shall be disposed of in accordance with the applicable requirements of the Standard Specifications and the Town of Hilton Head Island Land Management Ordinance.

3.0 Damage to Remaining Vegetation:

The Contractor shall conduct his operations in such a manner to prevent injury to vegetation that is to remain growing, and also to prevent damage to adjacent property.

If any such injuries to vegetation occur, broken branches shall be removed and rough edges of scarred edges shall be shaped and made smooth in accordance with the American National Standards Institute (ANSI) A300 Standards. Any vegetation that is damaged to such an extent as to destroy their value for landscape purposes shall be removed, disposed of, and shall be replaced by the Contractor at no additional cost to the Town. Any grass or ground cover that is damaged shall be seeded and mulched by the Contractor at no additional cost to the Town.

4.0 Measurement:

The quantity of selective tree removal to be paid for will be the actual number of trees which have been removed and disposed of. The diameter will be determined by measuring the circumference of the tree forty-two (42) inches above the above average ground level.

5.0 Payment:

Selective Tree Removal- The quantity of selective removal, measured as provided above will be paid for at the Contract unit price per each for "Selective Tree Removal, 6 inch to 12 inch diameter". Such payment will be full compensation for all work covered by this special provision, including the removal and disposal of designated stumps, and undergrowth; and repairing any damage to vegetation.

Payment will be made under:

SP-2 SELECTIVE TREE REMOVAL, 6 INCH TO 12 INCH DIAMETER..... EA

SP-3, INCIDENTAL PUMPING:

1.0 Description:

Pumping will be in accordance with the SCDOT Standard Specifications with the following exceptions mentioned below. The need and duration of the pumping operation will be approved by the Owner prior to beginning work. This item is for pumping of incidental water in excavations, existing pipes and structures. This item excludes surface water pumping (SP-4) or Well Pointing. The pumps used for this operation are in the category of "trash pumps" and generally are 3" or less in diameter.

2.0 Measurement:

The quantity of pumping will be measured per day. There will be no measurement of a pump held in ready. There will be no separate measurement or payment for related items needed to run a pumping operation. This includes, but is not limited to, all transport and setup, fuel, oil, labor, consumable and maintenance and related items required to pump. This item also includes placement of incidental stone, such as No. 57 stone used for filtering suction hoses and/or filters.

3.0 Payment:

The quantity of pumping, measured as provided in this special provision will be paid for at the Contract unit price for pumping. There will be no partial payment for this item. Any pumping in a 24 hour period will constitute a day of pumping and will be paid for at the unit price bid for Pumping.

Payment will be made under:

SP-3 INCIDENTAL PUMPING.....PER DAY

SP-4, PUMPING (DE-WATERING):

1.0 Description:

Pumping will be in accordance with the SCDOT Standard Specifications with the following exceptions mentioned below. The need and duration of the pumping operation will be approved by the Owner prior to beginning work. This item is for surface water pumping, lagoon pumping, or pumping of existing pipes and structures. This item excludes Well Pointing, and incidental pumping (SP-3). Pumps used for this operation may need to be noise isolated if requested by the Town. There is no additional pay item for noise isolated/quiet pump use.

2.0 Measurement:

The quantity of pumping will be measured per day. There will be no measurement of a pump held in ready. There will be no separate measurement or payment for related items needed to run a pumping operation. This includes, but is not limited to, all transport and setup, fuel, oil, labor, consumable and maintenance and related items required to pump. This item also includes placement of incidental stone, such as No. 57 stone used for filtering suction hoses and/or filters.

3.0 Payment:

The quantity of pumping, measured as provided in this special provision will be paid for at the Contract unit price for pumping. There will be no partial payment for this item. Any pumping in a 24 hour period will constitute a day of pumping and will be paid for at the unit price bid for Pumping. No additional payment for noise isolated/quiet pumps.

Payment will be made under:

SP-4 PUMPING (DE-WATERING) .....PER DAY

SP-5, TREE PROTECTION FENCE:

1.0 Description:

Work covered by this special provision consists of furnishing, erecting, and removing tree protection fence at locations shown on the plans and as directed by the Engineer.

2.0 Materials:

Materials shall be as specified by the Town of Hilton Head Island Natural Resources Department, generally orange plastic mesh, at least 48 inches high, measured from grade, mounted on steel or wooden posts.

3.0 Construction Methods:

The tree protection fence shall be constructed in accordance with Town of Hilton Head Island Tree Natural Resources Department. Tree protection fence shall be maintained in its originally installed condition throughout the project duration. Payment will not be made for any tree protection fence which is not properly maintained. Once the project is complete and has been accepted, the Contractor must remove all tree protection fencing installed.

4.0 Measurement:

The quantity of tree protection fence to be paid for will be the actual number of linear feet of tree protection fence, measured along the fence, which has been erected and accepted.

5.0 Payment:

The quantity of tree protection fence, measured as provided above, will be paid for at the Contract unit price bid per linear foot for "Tree Protection Fence". Such payment will be full compensation for all work covered by this special provision, including but not limited to, furnishing, erecting and removing fence material, posts, and all incidentals.

Payment will be made under:

SP-5 TREE PROTECTION FENCE .....LF

SP-6, LABOR RATES:

1.0 Description:

All necessary labor shall be included in the unit costs of each line item, however it may be necessary for additional services and thus the following rates shall apply.

The work covered by this special provision consists of the Contractor providing all labor, operators and hand equipment necessary to remove and dispose of channel debris in and appropriate and legal manner.

The work includes a combination of hand labor, and equipment for utility purposes and for hauling.

Debris shall be described as all man-made or natural materials including but not limited to discarded washing machines, car batteries, tires, bicycles, shopping carts, living or dead trees and undergrowth, and stumps.

Additional laborer(s), upon approval by the Town, may be required to complete the tasks described in future Job Orders. This Contract is based on the assumption that additional laborer(s) will not typically be needed. Laborer shall be defined as those employees of the Contractor whose normal work duties include manual labor and operation of hand equipment, and are paid by the Contractor at the rate of laborer.

FOREMAN & PICKUP:

1.0 Description:

Foreman & Pickup shall be defined as those employees of the Contractor whose normal work duties include the supervision of daily operations of laborers, equipment operators and equipment and are paid by the Contractor at the rate of Foreman.

2.0 Measurement:

Measurement of Foreman & Pickup will be the actual number of hours worked on the project. This measurement shall include the use of a pickup truck provided by the Contractor. No separate measurement will be made for fuel, oil or maintenance for pickup.

3.0 Payment:

Foreman and Pickup will be paid for at the hourly rate bid. Foreman and Pickup rates shall include all overhead, profit, and benefits.

TRUCK DRIVER:

1.0 Description:

Truck Driver shall be defined as those employees of the Contractor whose normal work duties include the operation of medium and heavy trucks and are paid by the Contractor at the rate of Truck Driver.

2.0 Measurement:

Measurement of Truck Driver will be the actual number of hours worked on the project.

3.0 Payment:

Truck Driver will be paid for at the hourly rate bid. Truck Driver rates shall include all overhead, profit, and benefits.

HEAVY EQUIPMENT OPERATOR:

1.0 Description:

Heavy Equipment Operator shall be defined as those employees of the Contractor whose normal work duties include the operation of medium and heavy construction equipment and are paid by the Contractor at the rate of operator.

2.0 Measurement:

Measurement of Operator will be the actual number of hours worked on the project.

3.0 Payment:

Operator will be paid for at the hourly rate bid. Operator rates shall include all overhead, profit, and benefits.

LABORER:

1.0 Description:

Laborer shall be defined as those employees of the Contractor whose normal work duties include manual labor and operation of hand equipment, and are paid by the Contractor at the rate of laborer.

2.0 Measurement:

Measurement of labor will be the actual number of hours worked on the project.

3.0 Payment:

Payment for Labor Rates, measured as provided above, will be made at the Contract unit price per hour for the various items listed under this special provision. These prices and payments will be full compensation for all elements of work including hand labor, light equipment, fuel, lubricants, cutting edges, repairs, and operating costs, overhead and profit and benefits. There will be no separate measurement or payment for hauling or dump fees.

FLAGGER:

1.0 Description:

Flagger shall be in accordance Section XVI-A of the W.A.T.C.H. handbook.

2.0 Materials:

Materials shall be in accordance with Section XVI- B&C of the W.A.T.C.H. handbook.

3.0 Construction Methods:

Construction Methods shall be in accordance with Section XVI-D&E of the W.A.T.C.H. handbook.

4.0 Measurement:

The quantity of Flaggers to be paid for will be the actual number of hours Flagger is used on a project.

5.0 Payment:

Flaggers will be paid for at the hourly rate bid. Flagger rates shall include all overhead, profit, and benefits.

Payment will be made under:

SP-6

FOREMAN AND PICKUP TRUCK ..... HR
TRUCK DRIVER ..... HR
HEAVY EQUIPMENT OPERATOR ..... HR
LABORER ..... HR
FLAGGER ..... HR

SP-7, EQUIPMENT:

1.0 Description:

Equipment shall be defined as those types listed under EQUIPMENT in the itemized proposal or other equipment utilized on the project as approved by the Engineer.

1.0 Measurement:

Measurement of equipment will be the actual number of hours worked on the project.

For the items “Gas Cut-Off Saw” and “Boat and Barge,” no separate measurement or payment will be made for the operator or laborer using the equipment; that cost shall be included in the equipment unit cost.

3.0 Equipment:

LONG REACH TRACK HOE (CAT 329 D L, or Comparable)
TRACK HOE (CAT 225, or Comparable)
TRACK HOE (LARGER THAN CAT 225, or Comparable)
BACK HOE / LOADER (CAT 426, or Comparable)
RUBBER TIRE LOADER (CAT 930, or Comparable)
SKID STEER LOADER (3500 LBS)
DUMP TRUCK (Single-Axle)
DUMP TRUCK (Multi-Axle)
GAS CUT-OFF SAW
COMPACT EXCAVATOR / MINI EXCAVATOR (or Comparable)
MICRO EXCAVATOR (JCB 8008 CTS or Equivalent)
DOZER (CAT D4, John Deere 650 or Equivalent)
GRADALL WITH 2.0 CY DITCH BUCKET
MOTOR GRADER (CAT 12M, John Deere 770, or Equivalent)
LOWBOY TRAILER FOR MOVING EQUIPMENT (beyond initial mobilization and demobilization)

4.0 Payment:

Equipment will be paid for at the hourly or daily rate bid. Equipment rates shall include the cost of fuel, lubricants, cutting edges, all repairs, and all other operating costs other than the operator's wages. Hourly rates for equipment held in ready as directed by the Engineer shall be 50 percent of the rate paid for equipment in use.

Payment will be made under:

SP-7

LONG REACH TRACKHOE (CAT 329 D L, or Comparable) ..... HR
TRACK HOE (CAT 225, or Comparable) ..... HR
TRACKHOE (LARGER THAN CAT 225, or Comparable)……..……HR
BACK HOE / LOADER (CAT 426, or Comparable) ..... HR
RUBBER TIRE LOADER (CAT 930, or Comparable) ..... HR
SKID STEER LOADER (3500 LBS)..... HR
DUMP TRUCK (Single-Axle) ..... HR
DUMP TRUCK (Multi-Axle) ..... HR
GAS CUT-OFF SAW ..... HR
COMPACT EXCAVATOR / MINI EXCAVATOR (or Comparable) ..... HR
MICRO EXCAVATOR (JCB 8008 CTS or Equivalent)……...……HR
DOZER (CAT D4, John Deere 650 or Equivalent)……..…….……..HR
GRADALL WITH 2.0 CY DITCH BUCKET……HR
MOTOR GRADER (CAT 12M, John Deere 770, or Equivalent)……...…....HR
LOWBOY TRAILER FOR MOVING EQUIPMENT (beyond initial mobilization and demobilization)……HR

SP-8, TEMPORARY PIPE PLUGS:

1.0 Description:

Pipe plugs up to 36" diameter shall be used where required by the engineer per SCDOT Designation: SC-M-714

2.0 Materials:

Taylor Made Plastics, Inc. "Pipe Plug" or equal per SCDOT Designation: SC-M-714 (07/07)

3.0 Construction Methods:

Install, maintain and remove temporary pipe plugs per manufacturer's recommendations.

4.0 Measurement:

Quantities are calculated based on the cost per plug, to purchase or rent the material, install, and remove the plug.

5.0 Payment:

Payment will be made based on the cost of all operations involving the installation and removal per pipe plug, which may or may not in include dewatering, and/or commercial diving services as required.

Payment will be made under:

SP-8 TEMPORARY PIPE PLUGS ..... EA

SP-9, CASTINGS:

1.0 Description:

Provide iron castings for frames, grates, covers, etc., conforming to the requirements of AASHTO M 105, Class 35B, and the alternate load test conforming to the requirements of AASHTO M 306. Produce castings in closed molds and boldly filleted at angles. Ensure that the arises are sharp and perfect and make certain that they are true to pattern in form and dimensions, free from pouring defects, sponginess, cracks, blowholes, and other defects affecting their strength and value for the service intended. Ensure that the castings are clean and neatly finished. Make certain gratings and covers fit firmly into their respective frames.

Steel grates and frame may be used instead of cast iron as long as the loading and hydraulic requirements are met and they conform to the following:

A. Hot dip zinc coat steel grates and frame in accordance with AASHTO M 111.

B. Dimension steel grates and frame to be interchangeable with each piece of the cast iron grate and frame shown on the Plans.

C. Provide steel grates and frames of sufficient strength to meet or exceed the loading requirements of *Federal Specification RR-F-621* (latest edition).

Ensure that the manufacturer has a testing program to verify that the castings comply with the strength requirements of AASHTO M 105. Make certain test bars are Type B and are made and tested in accordance with the requirements of AASHTO M 105.

This specification is for material, delivery, and labor required for installation of items into existing frames. Any other incidental work shall be covered under "STRUCTURES" on the bid item list. "STRUCTURES" items shall include castings.

2.0 Measurement:

Measurement shall be each, per item installed.

3.0 Payment:

Payment will include the cost of all operations involving the installation of each item.

Payment will be made under:

SP-9 CASTINGS…….EA

SP-10, ROAD PLATES:

1.0 Description:

To accommodate excavation work, steel plate bridging may be necessary. All conditions for use of steel plate bridging shall be set forth in the following provisions:

Consideration of steel plate bridging shall take into account the following factors: traffic volume and composition, duration and size of the proposed excavation, and weather conditions. When backfilling operations of an excavation of a roadway, whether traverse or longitudinal cannot be properly completed within a work day, steel plate bridging with a non-skid surface and shoring may be required to preserve unobstructed traffic flow. In such cases, the following conditions shall apply:

a) Steel plates used for bridging must extend a minimum of 12" beyond the edges of the trench.
b) Steel plate bridging shall be installed to operate with minimum noise.
c) The trench shall be adequately shored to support the bridging and traffic loads.

d) Temporary paving with cold asphalt concrete shall be used to feather the edges of the plates, if plate installation by Method (2) described below, is used.
e) Steel plate bridging shall be secured against displacement by using adjustable cleats, shims, or other devices.

Steel plate bridging and shoring shall be installed as directed by the Owner using either Method (1) or (2):

Method 1 (for speeds greater than 45 mph): The pavement shall be cut and cold planed to a depth equal to the thickness of the plate and to a width and length equal to the dimensions of the plate.

Method 2 (for speeds less than 45 mph): Approach plate(s) and ending plate (if placed longitudinally) shall be attached to the roadway by a minimum of (2) dowels pre-drilled into the corners of the plate and drilled 2 inches into the pavement. Subsequent plates are butted to each other. Fine graded asphalt concrete shall be compacted to form ramps with a maximum slope of 8.5%, with a minimum 12" taper to cover all edges of the steel plates. When the steel plates are removed, the dowel holes in the pavement shall be backfilled with either fine graded asphalt concrete mix, concrete slurry, or equivalent grout approved by the Owner.

The Contractor is responsible for maintenance of the steel plates, shoring, asphalt concrete ramps, and ensuring that they meet minimum specifications. The minimal thickness of the steel plate shall be one inch, based on the use of A-36 grade steel spanning a trench no greater than 5 feet. The steel plates shall have a nominal coefficient of friction of 0.35 skid resistance. The owner has the right to reject any plates that are permanently deformed as determined by inspection with a straight edge.

A "Rough Road" or "Bump Ahead" road sign (W33) with black lettering on an orange background shall be placed in advance of steel plate bridging, in conjunction with all other required signing.

2.0 Measurement

Measurement will be by dimensions of the plate used per week, on a 1 week minimum.

3.0 Payment

Payment will include all labor, transportation, incidental asphalt, signage, installation, and plate and/or shoring material rental as required for this item.

Payment will be made under:

SP-10 ROAD PLATES…….WK

EXHIBIT D - UNIT COST SCHEDULE

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STORMWATER MAINTENANCE & REPAIR SERVICES

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Note: Unless noted otherwise on the plans or in the Special Provisions, the latest edition of the SCDOT Standard Specifications for Highway Construction shall be used as a guide for all materials and wormanship under this Contract. For reinforced concrete pipe (RCP) and high density polyethylene pipe (HDPE), the default specification is SCDOT Supplemental Technical Specification for Permanent Pipe Culverts, SC-M-714 (08/09). For all Inlet Structure Filters the default specification is SCDOT Supplemental Technical Specification for Inlet Structure Filters, SC-M-815-8 (04-11). Sediment Controls shall follow all current SCDOT Specifications and the DHEC Storm Water Management BMP Handbook.

Item No.	SCDOT Specification or Special Provision No.	SCDOT Std. Dwg. No. or Manufacter Std. No.	Item Description - Highlighted if Minimums Apply	Est. Qty.	Unit	Unit Price	Totals
1000	SP-1		Final Job Order Cost Mobilization ($500 or 5% minimum, negotiable up to 15%)	1	LS	NEG	NEG
			DEMOLITION				
2000	20210XX		Removal and Disposal of Existing Catch Basin, Drop Inlet, Manhole, Junction Box	1	EA		$ -
2001	2023000		Removal and Disposal of Existing Pavement (Including Saw Cut), **if SY<10, Add 10%**	10	SY		$ -
2002	2024100		Removal and Disposal of Existing Curb	25	LF		$ -
2003	2025000		Removal and Disposal of Existing Asphalt Pavement (Including Saw Cut), **if SY<20, Add 10%**	25	SY		$ -
			EARTHWORK				
3000	2012001		Clearing and Grubbing within Roadway	0.33	ACRE		$ -
3001	2013050		Clearing and Grubbing Ditches	30	SY		$ -
3002	2031000		Unclassified Excavation	150	CY		$ -
3003	2031000		Watercourse and Drainage Ditch Excavation	15	CY		$ -
3004	2033000		Borrow Excavation	50	CY		$ -
3005	2034000	203-105-00	Muck Excavation	25	CY		$ -
3006	2052000		No. 57 Stone for Backfill	50	TON		$ -
3007	2081001		Fine Grading	50	SY		$ -
3008	2103000	SC-M-210	Flowable Fill Material	35	CY		$ -
			BASES AND PAVEMENTS				
4000	305010X		Graded Aggregate Base Course (4.5" Uniform) (Macadam or Limestone)- Pathway, **if SY<10, Add 10%**	10	SY		$ -
4001	3050106		Graded Aggregate Base Course (6" Uniform) (Macadam or Limestone), if **SY<10, Add 10%**	25	SY		$ -
4002	4013200		Milling Existing Asphalt Pavement (2")	25	SY		$ -
4003	4013990		Milling Existing Asphalt Pavement (Variable)	25	SY		$ -
4004	4030340	403-105-00	HMA Surface Course Type C for Pathways (1.5" Compacted Thickness)	4	TON		$ -
4005	4030340	403-105-00	HMA Surface Course Type C (2" Compacted Thickness)	4	TON		$ -
			TRAFFIC CONTROL / PAVEMENT MARKINGS				
5000	1071000	610-XXX	Traffic Control	1	LS	NEG	NEG
5001	605110	602-005-00	Temporary Construction Signs & Posts (Typ. 3' x 3' Sign, Portable Sign Supports)	150	SF		$ -
5002	6041150	604-005-00	Barricade – Type II	2	EA		$ -
5003	6041200	604-005-00	Barricade – Type III	2	EA		$ -
5004	6041300		Traffic Control Barrel 36" Height with Reflective Tape	25	EA		$ -
			CORRUGATED HIGH DENISTY POLYETHYLENE PIPE CULVERT (HDPE)				
6000	7141793	SC-M-714 (08/09)	12" HDPE Pipe, **if LF<20, Add 10%**	25	LF		$ -
6001	7141794	SC-M-714 (08/09)	15" HDPE Pipe, **if LF<20, Add 10%**	25	LF		$ -
6002	7141796	SC-M-714 (08/09)	18" HDPE Pipe, **if LF<20, Add 10%**	25	LF		$ -
6003	7141798	SC-M-714 (08/09)	24" HDPE Pipe, **if LF<20, Add 10%**	25	LF		$ -
6004	714179A	SC-M-714 (08/09)	30" HDPE Pipe, **if LF<20, Add 10%**	25	LF		$ -
6005	714179C	SC-M-714 (08/09)	36" HDPE Pipe, **if LF<20, Add 10%**	25	LF		$ -
6006	8021204		4" Perforated Pipe Underdrain	25	LF		$ -
6007	8021206		6" Perforated Pipe Underdrain	25	LF		$ -
			REINFORCED CONCRETE PIPE CULVERT (RCP)				
7000	7141112	SC-M-714 (08/09)	15" RCP, Class III, **if LF<20, Add 10%**	25	LF		$ -
7001	7141113	SC-M-714 (08/09)	18" RCP, Class III, **if LF<20, Add 10%**	25	LF		$ -
7002	7141114	SC-M-714 (08/09)	24" RCP, Class III, **if LF<20, Add 10%**	25	LF		$ -
7003	7141116	SC-M-714 (08/09)	36" RCP, Class III, **if LF<20, Add 10%**	25	LF		$ -
7004	7141118	SC-M-714 (08/09)	48" RCP, Class III, **if LF<20, Add 10%**	25	LF		$ -

EXHIBIT D - UNIT COST SCHEDULE

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STORMWATER MAINTENANCE & REPAIR SERVICES

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Note: Unless noted otherwise on the plans or in the Special Provisions, the latest edition of the SCDOT Standard Specifications for Highway Construction shall be used as a guide for all materials and wormanship under this Contract. For reinforced concrete pipe (RCP) and high density polyethylene pipe (HDPE), the default specification is SCDOT Supplemental Technical Specification for Permanent Pipe Culverts, SC-M-714 (08/09). For all Inlet Structure Filters the default specification is SCDOT Supplemental Technical Specification for Inlet Structure Filters, SC-M-815-8 (04-11). Sediment Controls shall follow all current SCDOT Specifications and the DHEC Storm Water Management BMP Handbook.

Item No.	SCDOT Specification or Special Provision No.	SCDOT Std. Dwg. No. or Manufacter Std. No.	Item Description - Highlighted if Minimums Apply	Est. Qty.	Unit	Unit Price	Totals
			STRUCTURES				
8000	7142531	719-610-00	15" RCP Culvert Beveled End Section (or Flared End Section)	1	EA		$ -
8001	7142532	719-610-00	18" RCP Culvert Beveled End Section (or Flared End Section)	1	EA		$ -
8002	7142533	719-610-00	24" RCP Culvert Beveled End Section (or Flared End Section)	1	EA		$ -
8003	7191005	719-001-01	Catch Basin (Type 1) (4' x 4' Box)	2	EA		$ -
8004	7191205	719-009-01	Catch Basin (Type 9) (3' x 4' Box)	2	EA		$ -
8005	7191605	719-016-01	Catch Basin (Type 16)	2	EA		$ -
8006	7192011	719-105-01	Drop Inlet (24" x 24") (4' x 4' Box)	1	EA		$ -
8007	7192021	719-110-01	Drop Inlet (24" x 36") (4' x 4' Box)	1	EA		$ -
8008	7192105	719-505-01	Manhole	1	EA		$ -
8009	7192205	719-310-00	24" X 24" Junction Box	1	EA		$ -
8010	7192300	719-335-00	Spring Box (28" x 28" x 48")	1	EA		$ -
8011	7196000	719-315-00	Extra Depth of Box	1	LF		$ -
8012	7197052	719-705-01	Concrete Collar for up to 24" Pipe	1	EA		$ -
8013	71971XX	719-XXX-XX	Adjust Catch Basin, Manhole, Drop Inlet, Utility Box, Junction Box	1	EA		$ -
8014	SP-9	Neenah R3433*	24" x 24" Grate **(*Neenah or Equivalent)**	1	EA		$ -
8015	SP-9	Neenah R4343*	24" x 24" Grate - Ditch Grate "Crown" Type **(*Neenah or Equivalent)**	1	EA		$ -
8016	SP-9	Neenah R4345*	24" x 24" Grate - Beehive **(*Neenah or Equivalent)**	1	EA		$ -
8017	SP-9	Neenah R3455C*	24" x 36" Grate **(*Neenah or Equivalent)**	1	EA		$ -
8018	SP-9	Neeenah R1555*	Manhole Frame and Lid **(*Neenah or Equivalent)**	1	EA		$ -
8019	SP-9	Neenah R3402E*	24" x 24" Grate and Frame with Full Lip **(*Neenah or Equivalent)**	1	EA		$ -
			CURB, GUTTER, SIDEWALKS, AND DRIVEWAYS				
9000	7203110	720-105-01	Concrete Curb and Gutter (1'-6") Vertical Face	25	LF		$ -
9001	7203130	720-105-01	Concrete Curb and Gutter (1'-6") Ogee	25	LF		$ -
9002	7203210	720-105-01	Concrete Curb and Gutter (2'-0") Vertical Face	25	LF		$ -
9003	7203230	720-105-01	Concrete Curb and Gutter (2'-0") Ogee	25	LF		$ -
9004	7204100	720-000	Concrete Sidewalk (4" Uniform)	10	SY		$ -
9005	7205000	720-000	Concrete Driveway (6" Uniform)	50	SY		$ -
			EROSION & SEDIMENT CONTROL				
10000	8041025	804-000	Riprap (Class B)	10	CY		$ -
10001	80481XX	804-305-02	Geotextile for Erosion Control Under Riprap (Class 2 - Type C)	5	SY		$ -
10002	8102100		Seeding (Unmulched) - Hydroseeding, **if SY<10, Add 10%**	50	SY		$ -
10003	8101000		Seeding (Mulched), **if SY<10, Add 10%**	50	SY		$ -
10004	8152004	815-006-00	Inlet Structure Filter - Type F (Weighted Inlet Tubes)	20	LF		$ -
10005	8152007	815-205-00	Sediment Tube	20	LF		$ -
10006	8153000	815-605-00	Silt Fence (Including Removal of Silt)	100	LF		$ -
10007	8156219	815-001-00	Inlet Structure Filter - Type A (Sediment Tube/Filter Fabric Inlet Protection)	20	LF		$ -
10008	8156220		Inlet Structure Filter - Type G (Suspended Internal Inlet Filters)	2	EA		$ -
			LANDSCAPING				
11000	SP-5		Tree Protection Fence	50	LF		$ -
11001	SP-2		Selective Tree Removal, 6" - 12" Diameter	1	EA		$ -
			HOURLY LABOR RATES				
12000	SP-6		Foreman & Pickup, **4 Hr. Minimum**	40	HR		$ -
12001	SP-6		Truck Driver, **4 Hr. Minimum**	40	HR		$ -
12002	SP-6		Heavy Equipment Operator, **4 Hr. Minimum**	40	HR		$ -
12003	SP-6		Laborer, **4 Hr. Minimum**	40	HR		$ -
12004	SP-6		Flagger, **4 Hr. Minimum**	40	HR		$ -

EXHIBIT D - UNIT COST SCHEDULE

RFP 2015-0022

STORMWATER MAINTENANCE & REPAIR SERVICES

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Item No.	SCDOT Specification or Special Provision No.	SCDOT Std. Dwg. No. or Manufacter Std. No.	Item Description - Highlighted if Minimums Apply	Est. Qty.	Unit	Unit Price	Totals
			EQUIPMENT				
13000	SP-7		Long Reach Trackhoe (Caterpillar 329 D L or Equivalent) (50' or More Reach)	20	HR		$ -
13001	SP-7		Track Hoe (CAT 225, or Comparable)	20	HR		$ -
13002	SP-7		Track Hoe (Larger than CAT 225, or Comparable)	20	HR		$ -
13003	SP-7		Back Hoe / Loader (CAT 426, or Comparable)	20	HR		$ -
13004	SP-7		Rubber Tire Loader (CAT 930, or Comparable)	20	HR		$ -
13005	SP-7		Skid Steer Loader (3500 lbs)	20	HR		$ -
13006	SP-7		Dump Truck (Single-Axle)	20	HR		$ -
13007	SP-7		Dump Truck (Multi-Axle)	20	HR		$ -
13008	SP-7		Gas Cut-Off Saw	20	HR		$ -
13009	SP-7		Compact Excavator/ Mini Excavator (or Comparable)	20	HR		$ -
13010	SP-7		Dozer (CAT D4, John Deere 650, or Equivalent)	20	HR		$ -
13011	SP-7		Gradall with 2.0 CY Ditch Bucket	20	HR		$ -
13012	SP-7		Motor Grader (CAT 12M, John Deere 770, or Equivalent)	20	HR		$ -
13013	SP-7		Lowboy Trailer (For Moving Large Equipment Beyond Initial Mobilization/Demobilization)	20	HR		$ -
13014	SP-7		Micro Excavator (JCB 8008 CTS or Equivalent)	20	HR		$ -
13015	SP-3		Incidental Pumping (Mud Hog/Trash Pump)	5	DAY		$ -
13016	SP-4		Pumping (Dewatering) (Trailer Mounted or Skid Pump)	5	DAY		$ -
13017	SP-8		Temporary Pipe Plug (Up to 36" Diameter)	2	EA		$ -
13018	SP-10		Road Plate **(Minimum 1 Week)**	1	WK		$ -
						TOTAL FEE PROPOSED =	**$ -**

Receipt is acknowledged of Addenda Nos. _____.

By: _____

Title: _____

EXHIBIT E

JOB ORDER PROCEDURES

1. Job Order Procedure Overview

- Work under this Contract shall only be performed under the basis of a Job Order or Change Order that has been executed by both parties.
- The Town will request work from a Contractor by means of a Draft Job Request and will establish a project scope of work, site and priority. The project scope of work will be a general description of the desired work, provided with the goal of assisting the Contractor with the allocation of labor, equipment, and materials. Generally, the project site will consist of a single location; however, the project site may consist of multiple locations, whenever necessary to reduce the number of mobilizations for multiple project locations within close proximity of each other. Generally the Draft Job Request will specify the scope of work, an estimate of quantities, and a desired performance schedule.
- All Draft Job Requests shall require the Town and Contractor(s) to conduct a meeting onsite. At this meeting, several items, including but not limited to the following, shall be discussed and mutually agreed upon to the maximum extent practical in the field:

    - project objective(s),
    - cost effective solution(s)
    - line items required for the job,
    - quantities for each line item,
    - construction materials,
    - construction methods,
    - construction limits,
    - construction access/staging areas,
    - clearing limits,
    - tree removal,
    - traffic control,
    - erosion and sediment control,
    - utility coordination,
    - mobilization
    - work hours, and
    - schedule (number of days and start date)

- If the onsite meeting between the Contractor(s) and the Town is not feasible, the Contractor(s) shall perform their own onsite meeting to determine the factors listed above prior to the Town issuing the Final Job Request and/or the Contractor submitting a Work Plan.
- The Town will be responsible for assessing permitting needs and will address these prior to the issuance of any Job Order.
- The Town shall coordinate the project with the utility companies during the scoping and design phase and shall endeavor to determine potential utility conflicts prior to construction.
- After the onsite meeting, if necessary, the Town shall prepare and deliver to the Contractor(s) a revised Final Job Request containing a specific scope of work, estimate of quantities, and desired performance schedule.

- The Contractor(s) shall respond to the revised (if applicable) Final Job Request by submitting a Work Plan (i.e. proposal) based upon the plan, scope, quantities, and values from the Contract Unit Cost Schedule. The written Work Plan will include a brief description of the work, an itemized quote based on the Unit Cost Schedule in the Contract, an estimate of the project's completion date, a brief description of the necessary mobilization and justification for additional costs (if greater than the minimum 5%), a brief description/plan of the proposed traffic control measures (justification must be provided for the traffic control costs), any proposed Subcontractors, and any sketches, photographs, maps, records or additional information to explain the order and methodology by which the Contractor plans on completing the work.
- The Town will review the Work Plan, and will approve, reject, or amend it as quickly as possible. The Town reserves the right to utilize the entirety or any portion of the Contractor's Work Plan, and the Town may add, omit, or modify items and quantities at its discretion. If the Work Plan is amended or is approved as submitted, the Town will issue a Job Order, which will serve as the Contractor's Notice to Proceed for the project. If a Work Plan is rejected, the Town will generally allow the Contractor to revise and resubmit its Work Plan. However, the Town reserves the right to solicit a Work Plan and/or cost estimate from another Contractor, and may award the project, or portions of the project, to another Contractor, at its convenience.
- Once the Contractor has been selected and the Work Plan is approved, the Town will issue a Job Order, which will include the approved Work Plan and any modifications made by the Town, the scope of work, the estimate of quantities, and the work schedule. The scope of work, estimate of quantities, performance schedule, and not to exceed fee shall be negotiated and agreed upon for each Job Order by both the Town and the Contractor prior to beginning work. Once the Job Order is signed by both the Town and the Contractor, the document is considered executed, and the Contractor shall begin work according to the schedule in the Job Order.
- The Job Order packet shall include the Job Order Form signed by both parties (i.e. the Town and Contractor) and include the following attachments:

    - Sketch Plan or Construction Drawings of the work to be performed, with dimensions and quantities labeled
    - Construction limits, including site access and staging areas
    - Construction details and sections, as necessary
    - Calculations for quantity estimations, including cross-sections or dimensioned drawings, where necessary
    - Applicable specifications
    - Proof of Easement or Right-of-Entry for any work outside of a public rights-of-way

    And where applicable:
    - Permits (and conditions)
    - Tree removal plan
    - Erosion and sediment control plan
    - Traffic control plan

- Where time is of the essence, the Town may impose liquidated damages. This shall be clearly indicated on the Job Order. Liquidated damages in the amount specified on the

executed Job Order will be assessed for each day beyond the Job Order deadline until the work is substantially complete.

- Scott Liggett will approve each Job Order on behalf of the Town. The Contractor shall designate their personnel with signature authority, but at minimum the Designated Representative must have Job Order signature authority.

2. Timing and Schedules

- The performance schedule for each Job Order shall be negotiated and mutually agreed to by the Town and Contractor.
- The Contractor(s) shall meet with the Town for an onsite meeting within 5 business days of the Town's Draft Job Request. If it is not feasible for the Contractor to meet with the Town within this timeframe, the Contractor must complete their own site visit prior to the Town issuing the Final Job Request or the Contractor submitting their Work Plan.
- The Contractor(s) shall develop and submit a Work Plan based on the Final Job Request, within 3 working days of receipt.
- Once a Contractor is selected and the Job Order is executed by both parties, the Contractor shall have ten (10) calendar days to commence work, unless there is a specific timeframe stated on the Job Order and mutually agreed to by the Contractor and the Town.
- The Contractor shall notify the Town at least 48 hours prior to starting work. If proper notification is not given to the Town, the Contractor may have to demobilize and remobilize at the Contractor's expense.
- Emergency Response:
  - The Contractor may be asked to respond to and/or assist with emergency requests. If the Town is unable to secure the area, the Town would expect the Contractor at a minimum to secure the impacted area/public hazard temporarily (i.e. temporary signage, barriers, lane closures, etc.) at its earliest convenience until such time the Job Order could be issued for a Contractor to perform the construction work.
- Time extensions must be requested in writing by the Contractor and will be handled via the Change Order process as specified in the General Conditions.
- The Contractor shall be responsible to request utility locates in a timely fashion that does not impact the Job Order schedule. The Contractor will not be allowed to start construction until they have submitted the PUPS ticket or number to the Town if the ticket is not available.

3. Construction Documents

Most of the projects will be based on a sketch plan or approved construction drawings, with the appropriate lines, labels, grades, information, and dimensions necessary to execute the work. The applicable specifications and construction details will be specified or attached to the Job Order. The Job Order must be located at the job site at all times. If the Job Order is not onsite, the Town may issue a stop work order until the issue is corrected, at no additional cost to the Town. The Contractor shall provide all submittals in accordance with the Contract. The Contractor shall maintain Record Drawings of the work onsite and provide these to the Town at the completion of the project. Once all work is complete and accepted by the Town, the Contractor shall submit to the Town a Statutory Affidavit certifying that all Subcontractors and material suppliers have been fully compensated.

4. **Change Orders**
The Town will use the EJCDC Change Order Form and the process identified in the General Conditions of the Contract. The Contractor shall notify the Town immediately if they recognize that a Change Order is required (i.e. additional material, equipment, labor, or time is needed, or there is a change in scope of work). The Contractor shall not perform any work outside of the Job Order Scope of Work without first notifying the Town, and executing a Change Order. Any additional service, material, equipment, or labor that is utilized/performed without the Town's prior authorization will not be reimbursable.

5. **New Items**
The Town understands that the Unit Cost Schedule is not all-inclusive of labor, material, and other resources necessary for the completion of the services performed under this Contract, and that additional services may occasionally be necessary. Any such additional services will be negotiated as needed for each particular Job Order, and the negotiated rate will remain in effect for the duration of the Job Order. Rates/charges for additional services may be changed from one Job Order to another, but are subject to the Town's review and approval. The Town reserves the right to solicit cost information for such additional services from other Contractors, and may award the work to another Contractor at its convenience. Any additional services that are performed without the Town's prior written authorization will not be reimbursable. The Contract shall be amended to include new items as deemed necessary by the Town.

All non-contractual subcontracted work (i.e. items not listed in the Unit Cost Schedule) will be paid for by the Town at the Subcontractor's Cost of Work plus a fee, according to the Exhibit A- General Conditions. Any proposed subcontracted work must be submitted to the Town via an estimate provided by the Subcontractor prior to the subcontracted work being approved in writing by the Town. The Subcontractor costs in the estimate must be inclusive of all direct and indirect costs associated with completing the work, including, but not limited to, mobilization, equipment, labor, and fuel costs.

6. **Communication**
The primary points of contact for this Contract shall be:

THHI: Kelli Uyesugi Office: 843-341-4602 Cell: 843-295-8585
E-mail: kelliu@hiltonheadislandsc.gov

Contractor's Designated Representative: _____
Office: _____ Cell: _____
E-mail: _____

*The Designated Representative will be the only point of contact between the Contractor and the Town, and must have sufficient availability to meet onsite and correspond as necessary for the duration of this Contract. The Designated Representative will submit all invoices and supporting documentation. They will also be responsible for resolving all conflicts and answering any questions the Town may have. If the Designated Representative changes, the Town must be notified in writing.

Secondary Contacts shall be:

THHI:	Bryan McIlwee	Office: 843-341-4775 Cell: 843-384-8676
		E-mail: bryanm@hiltonheadislandsc.gov
THHI:	Jeff Buckalew	Office: 843-341-4772 Cell: 843-384-5142
		E-mail: jeffb@hiltonheadislandsc.gov
Contractor: _____		Office: _____ Cell: _____
		E-mail: _____
Contractor: _____		Office: _____ Cell: _____
		E-mail: _____

7. Subcontractors

All Subcontractors must be pre-approved in writing by the Town. The Contractor shall provide the Town with three (3) references for each Subcontractor for similar work within the past three (3) years. All Subcontractors used on this Contract must have a Town Business License, as well as the insurance and licenses required by the work and the Contract. No Subcontractor may be used under this Contract without prior written approval from the Town.

8. Utility Coordination

The Town will coordinate with utilities where needed during the scoping and design of each Job Order, but makes no assurances regarding potential utility conflicts. The Contractor shall be solely responsible for locating existing utilities and for any damages to all existing utilities during the course of the work. Utilities must be located prior to excavation. Utility depths, locations and elevations shall be verified by the Contractor. The Contractor shall provide the Town copies of the PUPS ticket and number as soon as it is received and it shall be attached to the Job Order as a submittal. Work cannot commence without submitting the PUPS ticket or number to the Town if the ticket is not available.

9. Traffic Control

The Contractor shall at all times follow the requirements of the current MUTCD guidelines and the SCDOT Work Zone Safety handbook. If applicable, the Town shall provide a traffic control plan to be implemented by the Contractor in the Job Request. Traffic Control will be negotiable per project and must be sufficiently justified and documented in the Contractor's Work Plan, and is subject to the Town's review and approval. If the Contractor continues to be unreasonable and excessive in their Traffic Control costs, the Town may cancel the Contract or assign the work to another Contractor at its discretion.

10. Payment Procedures

The Contractor shall follow the payment procedures outlined in SC-25-Measurement and Payment in the Special Conditions. Measurement and payment shall be made for completed work and materials stored, based on the Job Order and the Contract Unit Cost Schedule. Payment will be made according to actual quantities expended (i.e. not estimated quantities).

After work has been completed, the Contractor shall submit post-project photographs, videos, timesheets, dump/haul/load tickets, or other documentation to verify the actual labor, materials, and other resources used to complete each Job Order, to the Town's satisfaction. At the completion of the work, the Contractor shall meet with the Town onsite for a final inspection at which time all actual quantities shall be measured and reconciled via a Change Order prior to the final payment application submittal. The payment application submittal shall include adequate documentation (i.e. load/haul/weigh/disposal tickets, Subcontractor invoices, materials purchased, etc.) for the work completed. The Contractor shall certify the payment application forms and ensure they correlate with the Job Order.

11. Job Order Close Out Procedures

To close out a Job Order, the Town shall conduct a final inspection to determine that all work on the Job Order has been satisfactorily completed. The Contractor shall submit their record drawings to the Town. Actual material quantities, equipment time, and labor time shall be reconciled based on the Town's inspections and documentation of the Contractor. A project close-out Change Order must be processed and approved. The final request for payment (including final quantity adjustments) shall be agreed to by the Contractor and the Town before it is processed and paid. The final certification/affidavit that all Subcontractors and vendors have been paid in full must be received by the Town and filed with the Legal Department. All project related test reports and material certifications must be received and accepted by the Town. As-built surveys and/or record drawings must be received and accepted by the Town.