

CONTRACT DOCUMENTS

AND

SPECIFICATIONS

FOR

Monroe Sidewalk

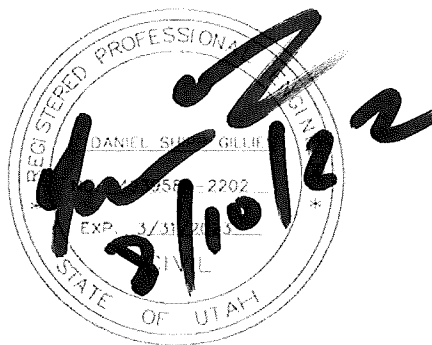
IN

OGDEN, UTAH

PREPARED BY

Daniel Gillies

August 10, 2022



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Monroe Sidewalk

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**DOCUMENT 00 00 40
LIST OF DRAWINGS**

Monroe Sidewalk

DRAWINGS

<u>Sheet No.</u>	<u>Title</u>	<u>Approval Date</u>
1.	Monroe Sidewalk Demolition Plan	8/3/22
2.	Monroe Sidewalk Construction Plan	8/3/22
3.	Monroe Sidewalk Landscape Plan	8/3/22

REFERENCE DRAWINGS

1. 2017 Manual of Standard Plans by the Utah Chapter of the American Public Works Association.
2. Ogden City's Engineering Standards for Public Improvements 2020 Edition.

END OF DRAWING LIST

DOCUMENT 00 10 00

INVITATION TO BID

PART 1 GENERAL

1.1 CONSTRUCTION CONTRACT

- A. Bidders are invited to bid on Construction Contract named as:

Monroe Sidewalk

- B. For information about the award of this Construction Contract, contact:
Daniel Gillies at (801) 629-8991.

1.2 DESCRIPTION OF WORK

- A. The location of the work is: Monroe Blvd: S/o 32nd Street.
- B. The estimated cost of the work is \$ 80000.
- C. The project shall be governed by these contract documents, special conditions, specifics related to the work, and all provisions of the Manual of Standard Specifications and Manual of Standard Plans 2017 Edition published by the Utah Chapter of the American Public Works Association (APWA) and Ogden City's Engineering Standards for Public Improvements 2020 Edition which are applicable to the work are made a part of the Contract Documents by reference.
- D. The work to be performed consists of furnishing and installing the equipment, facilities, services and appurtenances thereto as included in the Contract Documents. The Work generally includes, but is not limited to, the following:
Landscape removal, installation of sidewalk & ADA ramps and landscape restoration along with driveway tie-in work.

1.3 BIDDERS' PRE-QUALIFICATION

- A. Bidders are not required to be pre-qualified

1.4 BASIS OF BIDS

- A. Bids shall be on a unit price basis. Unsealed or segregated Bids will not be accepted.

1.5 CONTRACT TIME

- A. The Work will be Substantially Completed 30 calendar days after the date of the Notice to Proceed.

1.6 EXAMINATION AND PROCUREMENT OF DOCUMENTS

- A. Complete sets of Bid Documents will be available by downloading from the Ogden City website at "**no cost**". A complete set of Bid Documents must be used in preparing Bids. Bidders are responsible for securing any and all addenda issued. Owner and Engineer assume no responsibility for errors or misinterpretations resulting from the

use of incomplete sets of Bid Documents.

1.7 PRE-BID CONFERENCE

- A. A NON-MANDATORY pre-bid conference will be held at 10:00 a.m. on Tuesday, 8/30/2022, at Ogden, Utah in the conference room of the City Engineer. All contractors intending to submit a bid are ENCOURAGED to attend to obtain relevant information concerning the project. Bidders are advised that information affecting drawings, specifications, conditions, scope of the Work, etc. may be discussed. Any questions concerning the specifications for said project will be discussed at this time, and Bidders will be made aware of special conditions involved in the construction of this project. OWNER assumes no obligation to disclose information discussed at the pre-bid conference to Bidders who do not attend. Absent Bidders assume all risk of failure to attend.

1.8 BID SECURITY

- A. Bid security in the amount of five (5) percent of the Bid must accompany each Bid in accordance with the Instructions to Bidders. Bid Security will be returned to each unsuccessful Bidder after tabulation and in accordance with Document 00 20 00, Section 2.3.D.

1.9 BID LOCATION AND OPENING

- A. Sealed bids for furnishing all materials, labor, tools and equipment necessary to complete said work must be submitted on forms prepared by the City Engineer and are to be submitted to the office of the City Purchasing Agent, 2549 Washington Boulevard, 1st floor information desk, Ogden, Utah, until 10:30 a.m., Tuesday, 9/7/2022, at which time they will be opened and read aloud. **LATE BIDS WILL NOT BE ACCEPTED.**
- B. On the outside of the envelope, the bidder shall indicate the Construction Contract title, the name and address of the Bidder, and the date and time of Bid opening and the Bidder's return mailing address.

1.10 RIGHT TO REJECT BIDS

- A. The OWNER reserves the right to accept or reject any or all bids or to waive any informality or technicality in any bid that best serves its convenience and/or is found to be in the best interest of the City.

1.11 VALIDITY PERIOD FOR BIDS

- A. Bids shall remain valid for 45 days after the day of Bid opening. The three lowest bidders, per Document 00 20 00, Section 2.3 D, who withdraw their bid after Bid opening, but before expiration of said period, shall forfeit their bid security if Notice of Intent to Award to Bidder is made by OWNER.

1.12 GOVERNING LAWS AND REGULATIONS

- A. This project is not federally funded and does not require the payment of specific wage

rates. Payroll submittal will not be required.

- B. As a condition of the contract, contractors are to register and participate in the status verification system, as defined in section 63-99a-103(1)(c) of the Utah Code or its successor provision, to verify the work eligibility status of the contractor's new employees that are employed in the State of Utah.
- C. Contractor is responsible for verifying the employment status of new employees who work under the contractor's supervision or direction. In addition, contractor must maintain and have available for review upon demand by city an affidavit from each contractor or subcontractor who works under or for the contractor certifying that such contractor or subcontractor has verified through the status verification system, as defined in section 63-99a-103(1)(c) of the Utah Code or its successor provision, the employment status of each new employee of the respective contractor or subcontractor that is employed in the State of Utah.
- D. By entering into this contract, contractor verifies that 1) it has registered in the status verification system or that it will register in the status verification system within thirty (30) days of being notified that it has been awarded the contract, and 2) that it participates in the status verification system to verify the work eligibility status of new employees as required by law. If at any time during the period of this contract, contractor fails to remain registered in or to participate in the status verification system or to maintain on file any required affidavit, city may terminate the contract for cause or, in the alternative, city may suspend work under the contract until contractor shows compliance with the requirements of this section. City shall not be responsible for any costs, damages, expenses, losses or other claims resulting from contract termination or contract suspension resulting from contractor's failure to comply with the status verification system requirements or to have on file any required affidavit, nor shall contract time be extended by virtue of such failure to comply with the requirements of this section.
- E. Bidders on this Work will be subject to the applicable provisions of all federal rules, laws and regulations or orders.
- F. Furnishing of W-9. Payment under this Agreement is contingent upon Contractor furnishing City with a signed and completed W-9 IRS tax form. Such form shall be attached hereto and incorporated herein. Contractor shall cooperate with City in furnishing any additional information City may need to comply with rules and regulations of the Internal Revenue Service.
- G. Pursuant to the requirements of Section 3 of the Housing and Urban Development Act of 1968, the City has developed minority and women owned business affirmative action plans. The award of the Construction Contract shall be governed by these plans. A summary of the plans is included in the Contract Documents. Bidders should contact the federal contracts compliance clerk, telephone: 801-629-8000 regarding any questions concerning minority or women owned business.
- H. In compliance with Americans with Disabilities Act, (ADA) the following information is provided: FAX Number (801) 629-8735, TDD Number (801) 629-8701, Contact person: Mara Brown Management Services Director, Ogden City.
- I. Ogden City encourages and welcomes bids from minority and women-owned businesses.

Ogden City Purchasing Agent

Published: August 11, 2022

END OF DOCUMENT

DOCUMENT 00 20 00

INSTRUCTIONS TO BIDDERS

PART 1 GENERAL

1.1 DEFINED TERMS

- A. Terms used in the Bid Documents which are defined in Article 1.1 of the General Conditions will have the meanings indicated in the General Conditions.
- B. General Conditions: as published in Document 00 72 00 in the 2017 Manual of Standard Specifications by the Utah Chapter of the American Public Works Association and as published in Ogden City's Engineering Standards for Public Improvements 2020 Edition.

1.2 COPIES OF BID DOCUMENTS

- A. Complete sets of Bid Documents will be available by downloading from the Ogden City website at “**no cost**”. A complete set of Bid Documents must be used in preparing Bids. Bidders are responsible for securing any and all addenda issued. Owner and Engineer assume no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bid Documents.

<https://ogdencity.com/264/Purchasing>

- B. Bid Documents are made available to Bidder only for the purpose of obtaining Bids on the work. No license or grant for any other use is given.
- C. Bidding Document copyrights shall remain with the Owner.
- D. All provisions of the **Manual of Standard Specifications and Manual of Standard Plans 2017 Edition** published by the Utah Chapter of the American Public Works Association (APWA) and **Ogden City's Engineering Standards for Public Improvements 2020 Edition** which are applicable to the work are made a part of the Contract Documents by reference.

The APWA-Utah Chapter publications may be purchased online, as a set, at UTAH.APWA.net for \$75 and picked up at the Ogden site upon submission of the online printed receipt.

The Ogden City Engineering Standards and Amendments for Public Works Projects are also available (Free Download) online at:

<https://ogdencity.com/DocumentCenter/View/13520/2020-Engineering-Standards-for-Public-Improvements?bidId=>

1.3 PRE-BID CONFERENCE

- A. A NON-MANDATORY pre-bid conference will be held at 10:00 a.m. on Tuesday, 8/30/2022, at 2549 Washington Boulevard, Ogden, Utah in the 7th floor conference room of the City Engineer. All contractors intending to submit a bid are ENCOURAGED to attend to obtain relevant information concerning the project. Representatives of Owner and Engineer will be present to discuss the Project.

1.4 COMPENSATION AND QUANTITIES

- A. In General: The bid price for any lump sum contract includes all labor, materials, and incidental work to fully complete the work in a satisfactory manner under the terms of the Contract Documents. Bidders are responsible to inform themselves of the character of the work to be performed.
- B. Lump Sum Work: The work is to be paid for on a lump sum basis, the lump sum will be the only sum paid.
- C. Unit Price Work: If any portion of the work is to be paid for on a unit price basis, payment will cover only work actually performed and materials actually supplied at the unit prices bid and on the terms set forth in the Contract Documents, irrespective of any quantity approximations in the Bid Documents. Any quantity approximations in the Bid Documents are stated as a basis for determining bids, and they do not fix the amount of work to be done or materials to be furnished. Stated quantities are estimates for the purpose of doing the class of work required. Actual quantities will vary. The Owner may deviate in either direction from any indicated quantities. The Bidder shall have no claim for any variation in quantity, except to the extent permitted in the General Conditions.

1.5 EXAMINATION OF SITE AND CONTRACT DOCUMENTS

- A. In General: Bidders are permitted to converse with Engineer or Engineer's personnel having knowledge of the Project, Plans, Specifications, material sites, or conditions generally prevailing in the area of the project to aid in pre-bid investigations. The Owner is not bound by any statements or representations made by Engineer or Engineer's personnel before the bid opening or award of the Construction Contract, nor for any assumptions or conclusions reached by a prospective Bidder as a result of such communication unless the Engineer issues an Addendum to all prospective Bidders.
- B. Site, Access To: The lands upon which the work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Bidder in performing the work are identified in the Contract Documents. All additional off site lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Bidder.
- C. Contract Documents: The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 1.4; that without exception the Bid is premised upon performing and furnishing the work required by the Contract Documents; and, that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the work.
- D. Bidder's Obligations: The submission of a bid constitutes acknowledgement that Bidder has complied with all bidding instructions. It is the responsibility of each Bidder before submitting a Bid, to:
 - 1. Examine the Contract Documents thoroughly;
 - 2. Visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the work;

3. Consider federal, state and local laws and regulations that may affect cost, progress, performance or furnishing of the work;
4. Study and carefully correlate Bidder's observations with the Contract Documents; and
5. Identify and notify Engineer in writing in the manner set forth in article 2.1 below of all specific conflicts, omissions, errors or discrepancies in the Contract Documents, or if Bidder doubts their meanings.
6. Investigate all applicable construction and labor conditions, quantities, and the character of the work as they affect cost, progress, performance, or furnishing of the work;
7. Attend any pre-bid conference, which shall be mandatory if so designated in the Notice to Bidders;
8. Review all available explorations and data concerning surface and subsurface conditions.

The failure or omission of any Bidder to receive or examine any form, instrument, Addendum or other document, visit the site and become acquainted with conditions there existing, or attend the pre-bid conference, shall in no way relieve any Bidder from obligations with respect to Bidder's bid or its obligation to furnish all material, equipment, labor and services necessary to carry out the provisions of the Contract Documents and to complete the contemplated work for the consideration set forth in its Bid. Submission of a Bid shall constitute prima facie evidence of compliance with these instructions.

- E. Deviations from the Terms of the Contract Documents: Owner will not accept any deviations whatsoever from the printed terms of the Agreement (Document 00 50 00) and the Contract Documents, except by Addendum or Change Order.

1.6 PHYSICAL CONDITIONS

- A. In General: Before submitting a Bid, each Bidder will be responsible for review of Owner's explorations, tests and data concerning surface conditions, subsurface conditions and underground facilities at or contiguous to the site, or otherwise, which may affect cost, progress, performance or furnishing the work in accordance with the time, price and other terms and conditions of the Contract Documents.
- B. Surface and Subsurface Conditions: Provisions concerning surface and subsurface conditions, if any, are set forth in the Geotechnical Data (Document 00 32 00). The document provides the identification of:
1. Those reports of explorations and tests of subsurface conditions at the site which have been utilized by Engineer in preparing the Contract Documents; and
 2. Those drawings of physical conditions in or relating to existing surface and subsurface structures (except underground facilities) which are at or contiguous to the site which have been utilized by Engineer in preparing the Contract Documents.
- C. Underground Facilities: Information and data indicated in the Contract Documents regarding underground facilities at or contiguous to the site is based upon

information and data furnished to Owner and Engineer by owners of such underground facilities. The Owner does not assume responsibility for the accuracy or completeness thereof other than as provided in paragraph 4.3A.2 of the General Conditions or unless expressly provided in the Modifications to General Conditions (Document 00 81 00).

- D. Additional Explorations: On request in advance, and if possible, Owner will provide each Bidder access to the site to conduct any explorations and tests as each Bidder deems necessary for submission of a Bid. Bidder shall obtain permits, fill all holes, clean up and restore the site to its former condition upon completion of such explorations. Bidder agrees to release, indemnify, defend and save the Owner harmless from all costs, damages and liabilities of any kind whatsoever, including reasonable attorneys' fees, that may arise during and after the performance of additional explorations.
- E. Modifications to the Contract Documents: Provisions concerning the adequacy of the data furnished for subsurface structures and underground facilities, and the possibility of changes in the documents due to differing conditions appear in Articles 4.2 and 4.3 of the General Conditions.

1.7 EFFECT OF SUBMITTING A BID

- A. Bidders are responsible to carefully examine the Contract Documents, visit the site, and fully inform themselves so as to include in the Bid a sum to cover the cost of all items. Bidder's failure or omission to receive or examine any form, instrument, addendum or other document, visit the site and become acquainted with existing conditions, or attend any pre-bid conference, shall in no way relieve Bidder from any obligations with respect to Bidder's Bid or the Construction Contract.
- B. By submitting a Bid, Bidder represents that Bidder has complied with all requirements of the Bid Documents; that the Bid is premised on properly performing and furnishing the work required by the Contract Documents within the times specified; that the Bidder is informed of the conditions to be encountered and the character, quality and quantities of the work; and that the Bidder believes the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all term and conditions for performance and furnishing of the work.
- C. Submission of a Bid constitutes a promise that the Bidder will enter the Contract Documents in the form presented in the Contract Documents. Bidders should carefully examine all Contract Documents, including the required Bonds and insurance to be provided by the Bidder.
 - 1. The Performance Bond is a guarantee of faithful performance of the requirements of the Contract Documents, including all applicable warranties. The Payment Bond is a guarantee of payment of all labor, materials, or supplies used directly or indirectly in the prosecution of the work provided in the Construction Documents.
 - 2. The sum of the Performance Bond and the Payment Bond shall be increased or decreased during the course of the work in the event that Contract Modifications, Change Orders or Addenda increase or decrease the total contract price. The sum

of each bond shall be in an amount equal to the completed contract price at the completion of the work.

3. Owner does not provide any release of Performance Bonds or Payment Bonds. The bonds are in effect throughout all periods during which a suit may be brought under the provisions of applicable law.
- D. By submitting a Bid, Bidder represents that the matters stated therein are true and correct.

PART 2 BIDDING PROCEDURES

2.1 INTERPRETATIONS AND ADDENDA

- A. All requests for interpretation of the Contract Documents shall be made in writing and delivered to the Engineer no later than 72 hours prior to opening of Bids. Engineer will publish interpretations on the City Website in the form of a Written Addendum. If a Bidder's request for interpretation is not responded to by Engineer, Bidder shall not rely on any interpretation in the request which is contrary to the intent and terms of the Contract Documents.
- B. No oral interpretations shall be made to any Bidder. Owner will not be responsible for or bound by any statements, explanations, representations, conclusions, assumptions or interpretations made by any party, whether oral or written, except those duly issued in the form of written Addenda.
- C. Addenda may also be issued to modify the Bidding Documents as deemed advisable by Engineer. Each statement made in an Addendum is part of the Contract Documents at the location designated in the Addendum. A statement issued in an Addendum shall have the effect of modifying a portion of the Bid Documents when the statement in the Addendum specifies a particular section, paragraph or text and states that it is to be so modified. Only the specified section, paragraph or text shall be so modified, and all other portions of the Bid Documents shall remain in effect.
- D. Except to postpone the Bid opening, no Addenda shall be issued within 48 hours of the Bid opening.
- E. Any Addenda so issued during the time of bidding shall be deemed to be included in the Bid. All Addenda shall become a part of the Contract Documents.
- F. Bidders shall sign to acknowledge their receipt of all Addenda issued. Bidders shall also acknowledge receipt of all Addenda in the space provided in the Bid.

2.2 EQUIPMENT AND MATERIAL OPTIONS PRIOR TO BID OPENING

- A. If a Bidder or Supplier wishes to use items of equipment or materials other than those identified in the Contract Documents, said Bidder or Supplier shall submit a written request for approval to the Engineer at least 10 calendar days prior to the date set for opening of bids.
- B. The procedure for submission of any such product option shall be as set forth in **Article 6.4 of the General Conditions**. It is the sole responsibility of the Bidder or Supplier to submit complete descriptive and technical information so that Engineer can make a proper appraisal.

- C. Engineer's failure to act upon such a request within three (3) days after receipt shall be deemed a denial thereof.
- D. Any such approval is at the sole discretion of the Engineer and will be in the form of an Addendum and posted on the website for all Bidder's Bid Documents indicating that the additional equipment or materials are approved as equal to those specified for the Project.

2.3 BID SECURITY

- A. Amount of Bid Security: A Bid Security must accompany each Bid. The total amount of the Bid on which Bid security is to be based shall be the sum of all items of the Bid constituting the maximum amount of the possible award to the Bidder. The Bond amount must equal at least five (5) percent of the total amount of the Bid.
- B. Bid Bond: The Bond shall accompany and be attached to the Bid and shall be issued by a surety company authorized to do business in the State of Utah. The Bond shall guarantee that the Bidder, if awarded the work will promptly enter into the Construction Contract to perform the work in the manner required by the Contract Documents.
- C. Cashier's Check: The Bid Security may be in the form of a certified check, cashier's check, or Bid Bond. No other form of Bid Security will be accepted. If a cashier's check is used in lieu of a Bid Bond, the cashier's check must be drawn on a bank doing business in the State of Utah and made payable to Ogden City Corporation. Note that personal or company checks are not acceptable as bid security. If a cashier's check is used in lieu of a Bid Bond or if the Bid Bond does not specifically so provide, a certificate from an approved surety company guaranteeing execution of performance and payment bonds in the full amount of the bid must accompany the bid.
- D. Return of Bid Security: Owner will return Bid security to Contractor within seven (7) days after receipt of the Construction Contract by Ogden City Purchasing Division. Bid Bonds and cashier's checks of the lowest three Bidders will be held until the Construction Contract is awarded and a signed copy received by Ogden City Purchasing Division or all bids have been rejected. All other bid securities shall be returned following the bid opening. The liability of Owner in regards to the checks shall be limited only to the return of the checks.
- E. Default: In the event of failure or refusal of the Bidder to enter into the Construction Contract and the delivery to the Owner a Performance Bond, Payment Bond and any other Bonds or documents required by the Contract Documents after Notice of Intent to Award by the Owner, the Bidder forfeits the sum of the Bid Bond or cashier's check as liquidated damages to the Owner.

2.4 CONTRACT TIME AND PUNCH LIST TIME

- A. Provisions concerning Contract Time and Punch List Time are set forth in the Agreement (Document 00 50 00).

2.5 LIQUIDATED DAMAGES

- A. Provisions concerning liquidated damages are set forth in the Agreement (Document 00 50 00).

2.6 BID FORM

- A. The Bid form (Document 00 40 00) identifies all forms comprising the Bid Documents. Additional copies may be obtained from Engineer.
- B. Bids by corporations must be executed in the corporate name by the president, vice-president or other corporate officer authorized to sign and properly attested to as an official act of the corporation. At the Owner's request, authority to sign shall be submitted.
- C. Bids by partnerships or joint ventures must be executed in the partnership or joint venture name and signed by a partner or joint venture, whose title and official partnership address must be shown. If a partnership or joint venture is the low bidder, the partnership or joint venture must also submit evidence to the Owner of the responsibility of the partnership or joint venture as a bidder in the manner directed by the Engineer.
- D. All names must be typed or printed under or near the signature. Signatures shall be in longhand.
- E. The Bid shall contain an acknowledgment of receipt of all Addenda. The Addenda numbers and date issued must be filled in on the Bid form.
- F. The Bidder's address, telephone number and facsimile number for communications regarding the Bid must be shown on the first page of the Bid form.
- G. The Bidder shall make no stipulations or alterations on the Bid forms. The Bidder must use only the Bid form and Bid Schedules as bound in the Contract Documents or as may be modified by Addendum. To bid for the work, Bidder is required to submit the Bid (Document 00 40 00), the Bid Schedule (Document 00 41 10), Contract Time (Document 00 41 50), and Bid security to the Bid location indicated in the Invitation to Bid (Document 00 10 00).
- H. The Bidder must possess at the time of Bid Submittal all appropriate and required licenses and indicate such on the Bid form.
- I. Where the Bidder is wholly owned subsidiary of another company, the Bid must so state, and the owner or parent corporation also must agree to sign and be bound with the Bidder.
- J. The divisions and sections of the specifications, and the identifications of any Drawings, shall not control Bidder in dividing the work among subcontractors or suppliers, or delineating the work to be performed by any specific trade.
- K. The base Bid and alternates shall include all work required to be performed by the Contract Documents.

2.7 BID SCHEDULE

- A. Any work or material which is specified in the Contract Documents or which is necessary because of the nature of the work, but which is not listed separately in the

Bid Schedule (Document 00 41 10) shall not be measured or paid for separately. The cost of such work or material shall be considered as included in the contract price.

- B. All blanks on the Bid Schedule (Document 00 41 10) must be completed in ink or by typewriter. If applicable, furnish both the unit and the total costs for each item. Total Bid numbers shall be stated in both figures and written form, and the signature of all persons signing shall be in longhand. Any corrections, alterations or erasures made by the Bidder on the Bid Schedule shall be initialed in ink by the Bidder.

2.8 SUBMISSION OF BIDS

- A. Bids shall be submitted at the time and place indicated in the Invitation to Bid (Document 00 10 00) and should be enclosed in a sealed envelope, marked with the project title, the name and address of the Bidder, and the date and the opening time for bids. If the Bid is sent through the mail or other delivery system the sealed envelope should be enclosed in a separate envelope with the notation "**BID EN-CLOSED**" on the face of it. It is the sole responsibility of the Bidder to deliver the Bid before the scheduled time.
- B. Alternate bids, other than those called for in the Bid form, will not be considered.
- C. No oral, telegraphic, telephonic, facsimile or modified bids will be considered.
- D. Joint bids must be clearly indicated on the completed proposal forms. Failure to do so may be cause for rejection of the bid.
- E. **Only the following documents need to be submitted with the bid: 00 40 00 (Bid), 00 41 10 (Bid Schedule), 00 41 50 (Contract Time), and The Bid Security.** Bidder will make no recapitulations, stipulations, alterations, alternate submissions, or modifications in any manner to any of the Contract Documents.
- F. Bidder shall submit an acceptable Bid which requires the full completion and submission of all four (4) Documents listed in Section E above.

2.9 MODIFICATION AND WITHDRAWAL OF BIDS

- A. At any time prior to the opening of Bids, Bids may be modified or withdrawn if a written withdrawal is signed by Bidder and delivered to the place where Bids are to be submitted.
- B. Within 24 hours after Bids are opened, any Bidder may file written notice with Owner that there was a substantial mistake made in the preparation of its Bid. Bidder must thereafter promptly demonstrate Bidder's mistake to the reasonable satisfaction of the Owner. If Owner agrees, Bidder may withdraw its Bid and the Bid security will be returned to the Bidder.
- C. When it appears a mistake has been made, or when the Owner desires an assurance of any matter, the Owner may request a Bidder to confirm the Bid in writing.

2.10 OPENING OF BIDS

- A. Bids will be opened and read aloud publicly unless obviously non-responsive. An abstract of the amounts of the base schedule of prices and any alternate schedules will be made available for review after the opening of Bids.

- B. Any Bids received after the date and time specified in the Invitation to Bid (Document 00 10 00) will be returned unopened.

2.11 BIDS SUBJECT TO ACCEPTANCE FOR 45 DAYS

- A. All bids remain subject to acceptance for 45 days after the day of the Bid opening. Owner may, in its sole discretion, release any Bid and return the Bid security prior to that date.

2.12 NONDISCRIMINATION IN EMPLOYMENT

- A. Work under this Bid will obligate the Bidder and Subcontractors not to discriminate in employment practices.
- B. Bidders must, if requested, submit a compliance report concerning employment practices and policies in order to maintain their eligibility to receive the award of the Construction Contract.
- C. Equal opportunity employment shall be reflected in the racial and sexual composition of the Bidder's work force and the Owner urges an affirmative action program to overcome underutilization.
- D. Bidders are advised that the Construction Contract and its performance are subject to the applicable provisions of all laws and regulations. Bidder will be obligated upon written request, to give all applicable assurances of compliance in connection therewith.
- E. If federal nondiscrimination requirements are required, the Bidder shall be fully knowledgeable and comply with such requirements.

PART 3 AWARD OF CONSTRUCTION CONTRACT

3.1 QUALIFICATIONS OF BIDDERS

- A. Within seven (7) calendar days of Engineer's request, a Bidder, whose Bid is under consideration for award shall submit to the Engineer the following information for the Bidder. Engineer may request like information on Bidder's Subcontractors, or Bidder's Suppliers or any other information the Engineer may require.
 1. A current financial statement for the work (as provided to bonding company);
 2. A chronological list of "in progress" and "completed" construction work done by Bidder during the last three (3) years; including project name, address, owner, contact name, and current telephone number;
 3. Present construction commitments other than items listed in paragraph two (2) above;
 4. Proposed organizational structure such as firm ownership, project manager, progress scheduler, and superintendent for the work of this project;
 5. Owned and rented equipment which is to be used to do the work;
 6. Investigations, arbitration, litigation or claims which are pending, threatened, settled or otherwise disposed of within the last three (3) years;

7. Evidence of ability to perform and complete the work in a manner and within the time limit specified. As a minimum, identify specific projects similar to the work in physical size, cost, and commercial nature. If the work experiences of the project manager and superintendent designated to construct this project are different than that of the company, provide resumes of their work history. Include their actual project titles and indicate their actual responsibilities on each given project;
 8. All matters consistent with federal, state and local laws and regulations; and
 9. Such other data as may be called for in the Modifications to Instructions to Bidders (Document 00 22 00) (if any).
- B. If Bidder believes any information should be held confidential for business reasons, Bidder must submit a written claim of business confidentiality for that particular information and include a specific statement of the reasons supporting the claim pursuant to Utah Code Ann. 63-2-308. Owner will hold all requested information confidential and upon request, will return such information to Bidder after acceptance or rejection of Bid.
 - C. Untimely response or failure to provide the requested information by Bidder will release Owner of any obligation to further negotiate or consider the Bidder's Bid.

3.2 EVALUATION OF BIDS

- A. Owner reserves the right to reject any and all Bids; to waive minor informalities in the Bid Schedule and elsewhere so long as the informalities do not affect the Contract Documents or render the bid non-compliant with Laws and Regulation pertaining to bidding requirements; to negotiate and agree to contract terms with the successful Bidder; and to disregard non-conforming, non-responsive, unbalanced or conditional Bids; and to withhold the award for any reason deemed in the best interests of the Owner.
- B. Owner reserves the right to reject any Bid if Owner believes that it would not be in the best interest of the Project or the Owner to make an award to that Bidder. Without limitation such rejection may be because the Bid is not responsive, or the Bidder is unqualified or of doubtful ability or the Bid or Bidder fails to meet any other pertinent standard or criteria established by Owner in the Supplementary Instructions to Bidders (Document 00 22 00).
- C. Owner will consider the qualifications of the Bidder (whether or not the Bid complies with the prescribed requirements) and such alternates, unit prices and other data, as may be requested in the Bid form (Document 00 40 00), Bid Schedule (Document 00 41 10), or written requests issued prior to Owner's Notice of Intent to Award the Construction Contract. If the Owner intends to make an award to a Bidder, a Notice of Intent to award will be issued.
- D. Owner may consider the qualifications and experience of Bidder, Subcontractors, Suppliers, and other persons and organizations proposed (whether or not the Bid otherwise complies with the prescribed requirements) for those portions of the work as provided in the Subcontractors and Supplier Report (Document 00 45 30).

- E. Owner may consider the operating costs, maintenance requirements, performance data and guarantees of ability to provide the required materials and equipment. (When such data is required to be submitted prior to the Notice of Intent to Award the Construction Contract.)
- F. Owner may consider:
 - 1. Such alternates, unit prices and other data, as may be requested in the Bid Form, Bid Schedule, or written requests issued prior to Owner's Notice of Intent to Award the Construction Contract.
 - 2. Corporate organization and capacity for any party.
 - 3. Ability to perform and complete the work in the manner and within the time specified.
 - 4. Pending litigation.
 - 5. The amount of the Bid.
 - 6. Proper licensing to do the work in compliance with licensing laws of the State of Utah for contractors and subcontractors.
 - 7. All other relevant matters, consistent with the Owner's procurement code and administrative rules, Owner's ordinances and program policies.
 - 8. To establish qualifications of Bidder, Owner may request such data indicated in Article 3.1 herein above and conduct such investigations as Owner deems appropriate, and consider any other information (whether obtained from the Bid, the Bidder, or any other source.)
- G. If the Construction Contract is to be awarded, it will be awarded to the most responsive and lowest, qualified, responsible Bidder as determined by the Owner. Alternates may be accepted depending upon availability of Owner funds. Bid alternates may be considered at Owner's option in determining the most responsive, lowest, qualified, and responsible Bidder.
- H. Bid Schedules will be evaluated as follows:
 - 1. Discrepancies in the multiplication of quantities of work items and unit prices will be resolved in favor of the unit prices. Owner may correct Bid Schedule calculation errors accordingly.
 - 2. Prices written out in words shall govern over prices written out in numbers.
 - 3. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
 - 4. Bids shall not contain any recapitulations of or changes in the work to be done.
- I. The Owner, in the Owner's sole discretion, shall make determinations as to disqualification of Bidders or rejection of Bids. Such matters may include, without limitation, submission of more than one Bid by the Bidder (whether under the same or different names); evidence of collusion among Bidders; other commitments of Bidder which, in the Owner's sole judgment, might hinder the work; previous defaults, Bid irregularities when not waived in the best interests of the Owner, delays or poor performance by Bidder on any project; official action against Bidder; and any other cause which, in the Owner's sole discretion and judgment, is sufficient to justify disqualification of a Bidder or rejection of a Bid.

3.3 SUBCONTRACTORS, SUPPLIERS AND OTHERS

- A. Bidder shall not subcontract more than 49 percent of the dollar value of the total contemplated work (exclusive of the supply of materials and equipment to be incorporated in the work) without Owner's prior written approval.
- B. Conflict of interest pertaining to Subcontractors is described in paragraph 6.5H of the General Conditions.
- C. The following firms, which have been under contract to the Owner in the design phase of the work, shall not be used as subcontractors by the Contractor.
 - 1. Design Consultant: _____
 - 2. Geotechnical Consultant: _____
 - 3. Surveying Consultant: _____
 - 4. Other: _____
 - 5. Other: _____

3.4 CONTRACT SECURITY AND OTHER SUBMITTALS

- A. Performance Bond (Document 00 61 00) and Payment Bond (Document 00 62 00): The Owner's requirements as to Performance and Payment Bonds are as set forth in the 00 72 00 General Conditions - PART 5 - BONDS AND INSURANCE, Section 5.1 (as amended by Ogden City). Specific requirements are set forth in the Performance Bond (Document 00 61 00) and the Payment Bond (Document 00 62 00).
 - 1. The form of the Bonds should be carefully examined by the Bidder.
 - 2. When the successful Bidder delivers the executed Construction Contract to Owner, it must be accompanied by the required Performance and Payment Bonds. Do not complete the Performance Bond, Payment Bond or Agreement at the time of Bid submittal.
- B. Subcontractor and Supplier Report (Document 00 45 30): This report form is required within 24 hours of Engineer's request. The form shall list the name and address, of each Subcontractor who will perform work or labor or render service to the Bidder at the site of the work, or a Subcontractor who, off the job site, will specially fabricate a portion of the work or improvement according to detail Drawings. In each instance, the nature and extent of the work to be sublet in an amount in excess of two (2) percent of the Bid sum shall be described. Bidder must have the written consent of Owner to substitute for any of the Subcontractors or Suppliers designated or to employ any Subcontractor or Supplier which is not listed.
- C. Bidder Status Report (Document 00 45 20): One completed form shall be submitted upon Engineer's request or after Bidder receives Notice of Intent to Award.
- D. Other Information: When a determination has been made to award the Construction Contract, Bidder is required, prior to the award or after the award, or both, to furnish such other information as the Engineer requests.

3.5 ADJUSTMENTS TO THE COST OF THE WORK AFTER OPENING OF BIDS

- A. The contract price identified in the Agreement (Document 00 50 00) represents the cost of the work which is to be paid by the Owner to the Contractor. Adjustments to the contract price which are agreed to between the Owner and the successful Bidder shall be effected by signing an Agreement Supplement (Document 00 50 50).

3.6 SUBSTITUTIONS

- A. The Construction Contract, if awarded, will be on the basis of materials and equipment described in the Drawings, Specifications and any Addenda.
- B. After the effective date of the Construction Contract, the procedure for submitting an application for substitution is set forth in Article 6.4 of the General Conditions.

3.7 SIGNING OF AGREEMENT

- A. Within ten (10) working days after Owner gives Notice of Intent to Award the Construction Contract to the successful Bidder, the Bidder shall pick up, sign and return the required number of copies of the Agreement (Document 00 50 00) and attached documents to Owner with the required Bonds. A minimum of three (3) originals will be signed. One executed original will be returned to the Bidder. Bidder shall comply with all execution requirements.
- B. Transfers, delegations or assignments of interests in the Contract Documents are prohibited, unless prior written authorization is received from the Owner.
- C. At the time of Bidding, and the signing of the Agreement (Document 00 50 00), and at all times during the work, Bidder shall be properly licensed to do the work and shall be in compliance with the license laws of the State of Utah, Ogden City and Weber County. The Bidder shall also require all Subcontractors to do the same.
- D. All of Bidder's executions and submittals must be delivered to the Owner before Owner will execute the Construction Contract. The Construction Contract will not be deemed awarded and shall not be binding on the Owner until it has been approved and executed by the Owner, and a fully executed copy is formally delivered to the Contractor. The Owner reserves the right to rescind its Notice of Intent to Award without liability, except for the return of Bidder's Bid Security, at any time before the Construction Contract has been fully executed by all parties and delivered to the Contractor.
- E. If a Bidder fails to fully and properly execute the Construction Contract and provide all submittals required therewith within ten (10) days after the date of the Notice of Intent to Award, the Owner may elect to rescind the Notice of Intent to Award, and the Owner shall be entitled to the full amount of Bidder's Bid Security, not as a penalty, but in liquidation of and compensation for damages sustained. In the Owner's sole discretion, a Notice of Intent to Award may then be provided to another Bidder whose Bid is most advantageous to the Owner, price and other factors considered.

END OF DOCUMENT

**DOCUMENT 00 40 00
BID**

PART 1 GENERAL

1.1 BIDDER

- A. Name: _____
- B. Address: _____
- C. Telephone number: _____
- D. Facsimile number: _____
- E. Tax identification number: _____
- F. E-mail address : _____
- G. Bidder holds license number _____, issued on the ___ day of _____, _____, by the Utah State Department of Commerce, Division of Occupational and Professional Licensing. Bidder is licensed to practice as a _____ Contractor. License renewal date is the ___ day of _____.
- H. Primary License Classification Number: _____
- I. License Classification Title: _____

1.2 NOTICE

- A. Pursuant to Section 58-55-501(8), Utah Code Annotated (UCA), it is unlawful to submit a bid for any work for which a license is required under Chapter 55 of Title 58, UCA, by a person or other business entity not licensed or excepted from licensure as a contractor under Chapter 55 of Title 58, UCA. Pursuant to Section 58-55-503(1), UCA, contracts for the work may not be awarded to any person or other business entity which violates Sections 58-55-501(8) or (13), UCA, in submitting its bid.

1.3 CONSTRUCTION CONTRACT

Monroe Sidewalk

1.4 ADDENDA

- A. Bidder hereby acknowledges receipt of the following Addenda.
 - 1. (Date) _____
 - 2. (Date) _____
 - 3. (Date) _____

1.5 SUBMITTALS

- A. Bidder shall submit an acceptable Bid which requires the full completion and submission of all four (4) Documents listed in Document 00 20 00, Part 2, 2.8 Submission of Bids, paragraph E.
- B. If Bidder receives a notice of intent to award the Contract from the OWNER after bid opening, the Bidder is to submit the following documents.
 - 1. Document 00 45 20: Bidder Status Report.
 - 2. Document 00 45 30: Subcontractor and Supplier Report.
 - 3. Document 00 61 00: Performance Bond.
 - 4. Document 00 62 00: Payment Bond.
 - 5. Insurance Documents as required in the Ogden City's Engineering Standards for Public Improvements 2020 Edition
 - 6. Document 00 50 00: Agreement.

1.6 DEFINITIONS

- A. Bid Documents: The Bid Documents consist of the Invitation to Bid, the Instructions to Bidders, any Supplementary Instructions to Bidders, this Bid form, any supplements (or post-bid supplements), the Bid Schedule, any data listed by and limited to the provisions in the Geotechnical Data Document, and the Bid Bond.

PART 2 COVENANTS

2.1 BIDDER TO ENTER INTO AN AGREEMENT

- A. In General: Bidder agrees, if this Bid is accepted, to enter into a Construction Contract with the OWNER to perform and furnish all work specified or indicated in the Contract Documents at the Contract Time and Contract Price identified in the Agreement (Document 00 50 00).
- B. Agreement Supplement: If it becomes necessary to further define the Work, Contract Price, Contract Time or some other portion of the Construction Contract prior to signing the Agreement (Document 00 50 00), ENGINEER shall prepare an Agreement Supplement (Document 00 50 50) describing such change. The necessity for preparing such a contract modification is the OWNER's sole option. If the Agreement Supplement is acceptable to the Bidder, the Bidder agrees to execute Agreement Supplement prior to or concurrent with the execution of the Agreement (Document 00 50 00).

2.2 BIDDER ACCEPTS TERMS AND CONDITIONS

- A. Bidder accepts all of the terms and conditions of the Bid Documents, including without limitation those dealing with the disposition of Bid security.
- B. Bidder will pick up, sign and submit the Agreement (Document 00 50 00) with the Bonds and other documents required by the Agreement within 10 working days after the date of OWNER's Notice of Intent to Award the Construction Contract.

REPRESENTATION OF BIDDER

- A. In submitting this Bid, Bidder represents, as more fully set forth in the Instructions To Bidders (Document 00 20 00), that:
1. Nature of the Work: Bidder has become familiar with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.
 2. Surface and Subsurface Conditions: Bidder has studied carefully all reports and drawings of subsurface conditions and drawings of physical conditions which are identified in the Geotechnical Data (Document 00 32 00), (if any).
 3. Underground Utilities: Bidder has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site.
 4. Bidder Investigation: Bidder has correlated the results of all observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
 5. Discrepancy Resolutions: Bidder has given ENGINEER written notice of all conflicts, errors or discrepancies that Bidder has discovered in the Contract Documents and acknowledges that all written resolutions thereof, issued by ENGINEER prior to Bid opening are acceptable to Bidder.

2.3 OWNER'S RIGHTS AT BID AWARD

- A. Bidder agrees OWNER has the right to reject this Bid, or to award the Work or any part thereof to the undersigned at the prices stipulated. Bidder agrees to make no claim for damages for such rejection or award.
- B. If the Bid is rejected, then the Bid security shall be returned to the Bidder.
- C. If the Bid is accepted the OWNER will notify Bidder of OWNER's intent to award the Construction Contract to the Bidder. The Bidder shall have 10 working days to sign and return the Agreement (Document 00 50 00) to the ENGINEER. If Bidder fails to sign the Agreement, the Bid security, at OWNER's option, shall be claimed and cashed and the amount thereof, paid to OWNER as liquidated damages for the failure of the Bidder to comply with the terms of the Bid.
- D. Bidder agrees the Bid may be rejected if the submittals listed in this Document or the "Notice of Intent to Award" are not submitted within the time listed in the Notice of Intent to Award.

2.4 NON-COLLUSION

- A. Bidder agrees the Bid is genuine. The Bid is not made in the interest of or on behalf of any undisclosed person, firm or corporation.
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
- C. Bidder has not solicited or induced any person, firm or corporation to refrain from bidding.

- D. Bidder has not sought by collusion to obtain for itself any other advantage over any separate Bidder or over OWNER.

2.5 BID PRICING

- A. Bidder will complete the Work for the prices listed in the Bid Schedule (Document 00 41 00). Bidder agrees that quantities for Unit Price Work are not guaranteed. (Refer to Article 11.7 of the General Conditions (Document 00 72 00)).

2.6 SUBSTANTIAL COMPLETION, PROJECT COMPLETION AND LIQUIDATED DAMAGES

- A. Bidder agrees that the Work will be Substantially Complete and ready for Final Inspection on or before the expiration of the Contract Time indicated in the Agreement (Document 00 50 00).
- B. Bidder agrees the Work will be complete and ready for final payment in accordance with Article 14.9 of the General Conditions (Document 00 72 00) on or before the expiration of the Punch List Time indicated in the Agreement.
- C. Bidder accepts the provisions of the Agreement (Document 00 50 00) as to liquidated damages in the event of failure to complete the Work on time and in accordance with the Contract Documents.

PART 3 EXECUTION

3.1 EFFECTIVE DATE

- A. Bidder executes this Bid and declares it to be in effect as of the ___ day of _____, 20__.

3.2 BIDDER'S SUBSCRIPTION

- A. In submitting this bid, it is understood that the right is reserved by the Owner to reject any or all bids, or to waive any irregularities or informalities in any bid or bids.
- B. It is agreed that the bid may not be withdrawn by the Bidder for a period of forty-five (45) calendar days after the opening thereof.
- C. The undersigned has not added any qualifying statements to the bid, nor has he/she altered the proposal in any way.
- D. A joint bid by more than one is clearly indicated below.

Respectfully submitted,

FIRM NAME: _____

Seal
(If corporation)

Bidder's Signature: _____

Please print Bidder's name here: _____

Title: _____

Date: _____

END OF DOCUMENT

DOCUMENT 00 41 10

BID SCHEDULE

PART 1 GENERAL

1.1 DOCUMENT INCLUDES

- A. Bid schedules.
- B. Measurement and payment provisions.

1.2 CONSTRUCTION CONTRACT

- A. The Construction Contract is known as:
Monroe Sidewalk

1.3 REFERENCES

- A. APWA 01 29 00: Payment Procedures.
- B. Document 00 50 00: Agreement.

PART 2 BID SCHEDULES

2.1 BASE BID

- A. Bid Schedule No. 1 below describes work basic to the Contract.

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BID SCHEDULE No. 1

Monroe Blvd: S/o 32nd Street, Monroe Sidewalk

BID ITEM	DESCRIPTION	BID QUANTITY	BID UNIT	UNIT PRICE	CONTRACT AMOUNT
A	MOBILIZATION	1	LS		
B	SURVEY	1	LS		
C	TRAFFIC CONTROL	1	LS		
D	SWPP PLAN	1	LS		
1	DEMO CONCRETE FLATWORK	890	SF		
2	DEMO ASPHALT	50	SY		
4	DEMO TREE	1	EA		
8	GRIND STUMP	2	EA		
9	RELOCATE TRAFFIC SIGN	1	EA		
10	CLEAR & GRUB AREA	5360	SF		
15	4" CONCRETE FLATWORK	590	SF		
17	6" CONCRETE SIDEWALK	2150	SF		
22	IMPORT TOPSOIL	30	CY		
22 A	SOD ON TOPSOIL	2300	SF		
24	ROCK LANDSCAPE W/MARIFI WEED BARRIER	210	SF		
25	4" CONCRETE SIDEWALK	840	SF		
27	TYPE A C&G	25	LF		
28	DM 3/4 PG 58-28 HMA	12	TN		
29	OGDEN STD OVERHEAD DRIVE	25	LF		
30	6" CURB WALL	8	LF		
31	REMOVE/REPLACE ROCK WALL	1	LS		
32	RELOCATE MAILBOX	1	EA		
33	DEMO CONCRETE APRON	235	SF		
34	ADA PANELS	4	EA		
35	UNCLASSIFIED EXCAVATION	145	CY		
36	IRRIGATION SYSTEM ALLOWANCE	1	ALLOW	\$2,500.00	\$2,500.00

Total = \$ _____

Schedule Total in Words _____

Signature _____

PART 3 MEASUREMENTS AND PAYMENT

3.1 GENERAL

- A. See measurement and payment procedures in APWA Section 01 29 00.
- B. ENGINEER will take all measurements and compute all quantities.
- C. CONTRACTOR will verify measurement and quantities.
- D. CONTRACTOR will provide all equipment, workers, and survey crews to assist ENGINEER in making measurements.
- E. Units of measurement are listed above in the bid schedule(s).

3.2 MOBILIZATION, Bid Item A

- A. Measured by lump sum (LUMP).
- B. Payment covers cost of mobilization, demobilization, installation of temporary facilities and bringing all necessary construction equipment to the site. Payment will be made on a percentage basis as follows.

Percent of Original Contract Amount Earned Mobilization to be Paid	Percent of Amount Bid for
5	40
15	20
40	30
50	10

3.3 SURVEY, Bid Item B

- A. Measured by lump sum (LUMP).
- B. Payment includes survey required for construction staking and performing other related survey tasks required to complete the work. Provide construction staking for the project as requested by the CONTRACTOR. Re-staking due to the lack of protecting the survey is considered incidental to this item. Coordinate with the utility companies and provide survey as needed for the utility companies to relocate their lines. The utility staking is included as part of this item.

3.4 TRAFFIC CONTROL, Bid Item C

- A. Measured by lump sum (LUMP).
- B. A traffic control plan must be approved and stamped by an engineer before a right of way permit is issued.
- C. Payment includes all costs incidental to traffic control as specified in specification 01 55 26. Payment will be made on a percentage basin as follows.

Percent of Original Contract Amount Earned be Paid	Percent of Amount Bid for Mobilization to
5	50
15	20
40	20
50	10

3.5 SWPP PLAN, Bid Item D

- A. Measured by lump sum (LUMP).
- B. Payment covers the CONTRACTOR in providing and maintaining a storm water pollution prevention plan as outlined by the State of Utah DWQ. Permit No. UTR300000 found at: <http://www.waterquality.utah.gov/UPDES/stormwatercon.htm> which outlines the required steps for preparing and maintaining the SWPPP, provides guidelines, examples, templates, BMP specifications, etc. The CONTRACTOR will be listed as an operator along with Ogden City.
- C. Includes, but is not limited to items such as, silt fence, construction fencing, inlet protection, inlet clean-out (if necessary), and stabilized roadway entrances.
- D. The contractor will need to file an NOI with the state of Utah.

3.6 DEMO CONCRETE FLATWORK, Bid Item No. 1

- A. Measured by square feet (SQFT).
- B. Payment covers all labor, equipment, materials, and incidental costs necessary to dispose of the concrete and native soil.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, backfill, backfill compaction up to the rough grade of the roadway or landscaping and compaction testing.

3.7 DEMO ASPHALT, Bid Item No. 2

- A. Measured by square yard of asphalt pavement removed (SY).
- B. Payment covers all labor, equipment, materials, and incidental costs related to removal of asphalt pavement.
- C. Includes, but is not limited to, saw cutting, excavation, delivery, and debris disposal of the item.

3.8 DEMO TREE, Bid Item No. 4

- A. Measured per each tree (EA).
- B. Payment covers all labor, equipment, materials, and incidental costs necessary to remove each tree leaving the stump. Stump removal is to be paid by another bid item.
- C. Includes, but is not limited to, cutting, delivery and debris disposal of the item.

3.9 GRIND STUMP, Bid Item No. 8

- a. Measured per each stump (EA).
- b. Payment covers all labor, equipment, materials, and incidental costs necessary to grind each stump to 12” below existing grade and to compact/backfill the created void, with UTBC, up to existing grade.

3.10 RELOCATE SIGN, Bid Item No. 9

- A. Measured per each sign/post combination (EA).
- B. Payment includes all labor, equipment, materials, and incidental costs necessary to purchase and install each sign/post & anchor combination.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, preparation, post, anchor hardware, forming, placing concrete, testing concrete, finishing, and protection while curing.
- D. Sign placement, colors, shape, and dimensions shall confirm to the current Manual for Uniform Traffic Control and by relation; the current “Standard Highway Signs” Manual produced by the Federal Highway Administration. Posts shall only be bolted in the sidewalk if the sidewalk is 6’ wide or greater.

3.11 CLEAR AND GRUB AREA, Bid Item No. 10

- A. Measured by square foot (SQFT).
- B. Payment covers all labor, equipment, materials, and incidental costs necessary to remove tree sucker growth, shrubs, leaves, weeds, grasses and/or dead vegetation within the project footprint.
- C. Includes, but is not limited to, delivery and debris disposal of the item.

3.12 4 INCH CONCRETE FLATWORK, Bid Item No. 15

- A. Measured by square feet (SQFT).
- B. Payment includes all labor, equipment, materials, and incidental costs necessary to install the concrete flatwork. Compacted base course is incidental to this item.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, preparation, base, base compaction, compaction testing, forming, placing concrete, testing concrete, expansion/contraction joints, finishing, and protection while curing.

3.13 6 INCH CONCRETE SIDEWALK, Bid Item No. 17

- A. Measured by square feet (SQFT).
- B. Payment includes all labor, equipment, materials, and incidental costs necessary to install the sidewalk. Compacted base course is incidental to this item.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, preparation, base, base compaction, compaction testing, forming, placing concrete, testing concrete, expansion/contraction joints, finishing, and protection while curing.

3.14 TOPSOIL, Bid Item No. 22

- A. Measured per cubic yard (CY)
- B. Payment includes all labor, equipment, materials, and incidental costs necessary to install each ton of topsoil. Item includes CONTRACTOR grading as may be needed prior to finish landscaping.
- C. Includes, but is not limited to, delivery, preparation, and placement. Project topsoil thickness will vary but in not circumstance shall installed topsoil thickness be less than

4 inches.

3.15 SOD, Bid Item No. 22A

- A. Measured per square foot (SQFT).
- B. Payment includes all labor, equipment, materials, and incidental costs necessary to install each square foot of sod.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, preparation, grading, and placement.
- D. Contractor shall be responsible for watering and upkeep of any installed sod up to the point the ENGINEER authorizes the CONTRACTOR to issue a formal notice of landscape completion to each impacted property owner.

3.16 ROCK LANDSCAPE- 6 INCHES DEPTH, Bid Item No. 24

- A. Measurement is square feet (SQFT).
- B. Payment includes all labor, equipment, materials, and incidental costs necessary to install each square foot of landscape rock/weed barrier.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, preparation, grading, and placement.
- D. Acceptable landscape rock shall not be less than 1.5" diameter and shall fall within red to brown color spectrum.

3.17 4 INCH CONCRETE SIDEWALK, Bid Item No. 25

- A. Measured by square feet (SQFT).
- B. Payment includes all labor, equipment, materials, and incidental costs necessary to install the sidewalk. Compacted base course is incidental to this item.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, preparation, base, base compaction, compaction testing, forming, placing concrete, testing concrete, expansion/contraction joints, finishing, and protection while curing.

3.18 INSTALL TYPE A C&G, Bid Item No. 27

- A. Measured by linear foot along front face of curb (LF).
- B. Payment covers all labor, equipment, material, and incidental costs necessary to install each foot of C&G. Compacted base course is incidental to this item.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, preparation, base, base compaction, compaction testing, forming, placing concrete, testing concrete, expansion/contraction joints, finishing, and protection while curing.
- D. This item includes any required cuts for driveway approach placement.

3.19 HMA – DM ¾ PG 58-28, Bid Items No. 28

- A. Measured by ton (TON).
- B. Payment covers all labor, equipment, material, and incidental costs necessary to install each ton of PG 58-28 HMA.
- C. Includes, but is not limited to, sawcutting, preparing, applying tack coat, crack sealing the cold joints between the new and old asphalt, compacting, hydrated lime, prime coat, asphalt binder, aggregates and other additives required to furnish and install the asphalt to comply with project plans and specifications.
- D. Sub-grade and Base Course shall be compacted, proof rolled, and graded prior to installation of asphalt.
- E. Weigh tickets shall be provided to the Engineer prior to retainage release.

3.20 INSTALL OGDEN STD OVERHEAD DRIVE, Bid Item No. 29

- A. Measured by linear foot along front face of curb (LF).
- B. Payment covers all labor, equipment, material, and incidental costs necessary to install each foot of overhead drive. Compacted base course is incidental to this item.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, preparation, base, base compaction, compaction testing, forming, placing concrete, testing concrete, expansion/contraction joints, finishing, and protection while curing.
- D. This item includes the 3' long leading C&G w/curb wall leading elements and any required cuts for driveway approach placement.

3.21 INSTALL 6" CURB WALL, Bid Item No. 30

- A. Measured by linear foot along front face of curb (LF).
- B. Payment covers all labor, equipment, material, and incidental costs necessary to install each foot of curb wall. Compacted base course is incidental to this item.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, preparation, base, base compaction, compaction testing, forming, placing concrete, testing concrete, expansion/contraction joints, finishing, and protection while curing.

3.22 REMOVE/REPLACE ROCK WALL, Bid Item No. 31

- A. Measurement is along the length of the relocated rock wall, is lump sum (LS).
- B. Payment covers all labor, equipment, material, and incidental costs necessary to salvage and install each foot of rock wall.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, preparation, bedding, backfill, backfill compaction, and compaction testing.

3.23 RELOCATE MAILBOX, Bid Item No. 32

- A. Measurement shall be per each (EA).
- B. Payment covers all labor, equipment, materials, and incidental costs associated with removal and relocation of the existing mailboxes identified on the project plan set.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, concrete anchoring,

backfill, backfill compaction up to the rough grade of the roadway or landscaping and compaction testing.

- D. Contractor shall protect (or provide replacements for) the existing mailboxes over the duration of the project.

3.24 REMOVE CONCRETE APRON, Bid Item No. 33

- A. Measured by square feet (SQFT).
- B. Payment covers all labor, equipment, materials, and incidental costs necessary to dispose of the concrete and native soil.
- C. Includes, but is not limited to, excavation, delivery, debris disposal, backfill, backfill compaction up to the rough grade of the roadway or landscaping and compaction testing.

3.25 INSTALL ADA PANEL, Item No. 34

- A. Measured by each (EA).
- B. Payment includes all labor, equipment, materials, and incidental costs necessary to install each ADA (gray) tactile warning device.

3.26 UNCLASSIFIED EXCAVATION, Bid Item No. 35

- A. Measured by cubic yard (CY).
- B. Payment covers all labor, equipment, materials, and incidental costs required for project excavation.
- C. Excavation includes, but is not limited to, excavation, delivery, debris disposal, except the asphalt pavement and clearing/grubbing (which are their own bid items), within the project area.
- D. Excavation completed for Contractor's benefit or excavation error, dewatering of excavation slough or overbreak is incidental work.

3.27 UNDERGROUND IRRIGATION SYSTEMS, Bid Item No. 36

- A. Measurement by Allowance: A set cost is shown in the bid schedule for irrigation systems. The lump sum has been established by the ENGINEER as an allowance for the design, purchase, and installation of irrigation systems by the CONTRACTOR at various locations. If the work costs more than the allowance amount, the work will be covered by change order and not by the allowance amount.
- B. Cost which are included in the Allowance: Cost of product to CONTRACTOR or subcontractor, less applicable trade discounts and cost of product delivery to site.
- C. Costs which are included as Incidental work: Product handling at site, protection of product, labor for installation, overhead and profit.
- D. ENGINEER'S Responsibilities: Identify the appropriate amount of work to keep cost within the allowance amount. Consult with CONTRACTOR to select system installer and product supplier(s).
- E. CONTRACTOR'S Responsibilities:
- F. Assist ENGINEER in determining system installer and product supplier.

- G. Make recommendations for ENGINEER consideration.
- H. Promptly notify ENGINEER of any reasonable objections against system installer or supplier.
- I. On notification of selection of installer, execute purchase agreement with selected installer.
- J. Arrange for and process shop drawings, product data, and other submittals.
- K. Install, adjust, and finish landscaping.

END OF DOCUMENT

DOCUMENT 00 41 50 CONTRACT TIME

PART 1 GENERAL

1.1 DOCUMENT INCLUDES

- A. Contractor's proposal for Contract Time.

1.2 CONSTRUCTION CONTRACT

- A. The Construction Contract is known as Monroe Sidewalk.

1.3 DEFINITIONS

- A. Suspended Contract Time: The Contract Time commences to run upon the day given in the Notice to Proceed. Suspended Contract Time means there is a period within the Contract Time where time is not counted. For purposes of this Construction Contract, the time period not counted may not be broken up into separate periods but shall be considered as only a one time period to be used to allow for work suspension due to just cause.

1.4 CONTRACT TIME

- A. Engineer has estimated 30 calendar days are required to substantially complete the work. The total number of days established by the Bidder to substantially complete the work is _____ calendar days.
- B. If Bidder anticipates occurrence of Suspended Contract Time the number of calendar days of Suspended Contract Time anticipated is _____ calendar days providing the Notice to Proceed date is given by the Engineer after .

PART 2 EXECUTION

2.1 EFFECTIVE DATE

- A. Bidder executes this estimate of Contract Time and declares it to be a supplement to the Bid Schedule (Document 00 41 00) and in effect as of _____, 20__.

2.2 BIDDER'S SUBSCRIPTION

- A. Bidder's signature: _____
- B. Please print Bidder's name here: _____
- C. Title: _____

END OF DOCUMENT

**DOCUMENT 00 45 20
BIDDER STATUS REPORT**

PART 1 GENERAL

1.1 BIDDER

- A. Name: _____
- B. Address: _____

- C. Telephone Number: _____

1.2 CONSTRUCTION CONTRACT

- A. The Construction Contract is known as Monroe Sidewalk.

PART 2 REPORT

2.1 BIDDER STATUS REPORT

- A. Bidder affirms the following information is true and correct.
 - 1. Number of employees: _____
 - 2. Bidder's firm is: (check the following as applicable)
 - Independently owned and operated.
 - An affiliate of*
 - A subsidiary of*
 - A division of*
 - A business with gross revenue in excess of \$ _____
 - A business with gross revenue below _____ \$ _____

* PARENT COMPANY:

- Name: _____
- Address: _____

- Telephone Number: _____
- Facsimile Number: _____

PART 3 EXECUTION

3.1 EFFECTIVE DATE

A. Bidder executes this status report and declares it to be a supplement to the Bid (Document 00 40 00) and in effect as of _____, 20__.

3.2 BIDDER'S SUBSCRIPTION

- A. Bidder's Signature: _____
- B. Please print Bidder's name here: _____
- C. Title: _____

END OF DOCUMENT

DOCUMENT 00 45 30
SUBCONTRACTOR AND SUPPLIER REPORT

PART 1 GENERAL

1.1 BIDDER

- A. Name: _____
- B. Address: _____
- C. Telephone Number: _____

1.2 CONSTRUCTION CONTRACT

- A. The Construction Contract is known as Monroe Sidewalk.

PART 2 REPORT

2.1 SUBCONTRACTOR AND SUPPLIER REPORT

- A. Failure of the Bidder to specify a Subcontractor for any portion of the work constitutes an agreement by the Bidder that the Bidder is fully qualified to perform that portion, and that Bidder shall perform that portion.
- B. Bidder will be fully responsible to Owner for the acts and omissions of Subcontractors and Suppliers and of persons either directly or indirectly employed by them, as Bidder is for the acts and omissions of persons employed by Bidder directly.
- C. Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor or Supplier and the Owner. Bidder agrees each subcontract with Bidder's Subcontractor will disclaim any third party or direct relationship between Owner and any Subcontractor or Supplier.
- D. The names and addresses of the Subcontractors and Suppliers who will work under the terms of the Contract Documents and the estimated dollar amount of each subcontract (in excess of two (2) percent of the Bid sum) are set forth as follows.

Table 1 - BASE BID

SUBCONTRACTORS		
Name and Address	Nature and Extent of Work to be Sublet	Amount
1.		
2.		
3.		

SUPPLIERS		
Name and Address	Nature and Extent of Work to be Sublet	Amount
1.		
2.		
3.		
4.		

PART 3 EXECUTION

3.1 EFFECTIVE DATE

A. Bidder executes this Subcontractor and Supplier report and declares it to be a supplement to the Bid (Document 00 40 00) and in effect as of _____, 20__.

3.2 BIDDER'S SUBSCRIPTION

A. Bidder's Signature: _____
B. Please print Bidder's name here: _____
C. Title: _____

END OF DOCUMENT

DOCUMENT 00 50 00 AGREEMENT

PART 1 GENERAL

1.1 CONTRACTOR

- A. Name: _____
- B. Address: _____
- C. Telephone number: _____
- D. Facsimile number: _____
- E. E-Mail address: _____

1.2 OWNER

- A. Ogden City Corporation, a municipal corporation of the State of Utah, 2549 Washington Boulevard, Utah 84401.
- B. Justin Anderson is the Owner's representative and agent for this Construction Contract who has the rights, authority and duties assigned to the OWNER in the Contract Documents.
- C. Daniel Gillies is the resident project representative furnished by the OWNER.

1.3 CONSTRUCTION CONTRACT

- A. The Construction Contract is known as Monroe Sidewalk.

1.4 AGREEMENT PERFORMANCE

- A. The Contractor shall perform everything required to be performed, shall provide and furnish all labor, tools and equipment, and shall furnish and deliver all materials not specifically stated as being furnished by the Owner, to complete all the work necessary to complete the Construction Contract in Ogden City, State of Utah in the best and most workmanlike manner, and in strict conformity with the provisions of this contract, the proposal and the plans and specifications. The plans and specifications and the proposal are hereby made a part of the agreement as fully and to the same effect as if the same had been set forth at length in the body of this agreement. It is agreed that the status of the Contractor under this agreement is that of Independent Contractor rather than that of an employee of the Owner. Accordingly, the Contractor, in performance of his/her obligations hereunder, is independent and free from control of the Owner in all that pertains to the execution of the work and shall perform the work according to the Contractor's own methods without being subject to the rule, control or direction of the Owner or its representatives, save and except as to the results obtained. The finished work and the materials furnished must, however, conform strictly to this contract, the

proposal, and the plans and specifications aforesaid, and are subject to the final approval of the Owner and its authorized representatives, who may exert such direction and control thereof as may be necessary to achieve that conformity. All provisions in the specifications with respect to the direction and control of the work shall be construed so as to make effective this provision.

- B. As a condition of the contract, contractors are to register and participate in the status verification system, as defined in section 63-99a-103(1)(c) of the Utah Code or its successor provision, to verify the work eligibility status of the contractor's new employees that are employed in the State of Utah.

Contractor is responsible for verifying the employment status of new employees who work under the contractor's supervision or direction. In addition, contractor must maintain and have available for review upon demand by city an affidavit from each contractor or subcontractor who works under or for the contractor certifying that such contractor or subcontractor has verified through the status verification system, as defined in section 63-99a-103(1)(c) of the Utah Code or its successor provision, the employment status of each new employee of the respective contractor or subcontractor that is employed in the State of Utah.

By entering into this contract, contractor verifies that 1) it has registered in the status verification system or that it will register in the status verification system within thirty (30) days of being notified that it has been awarded the contract, and 2) that it participates in the status verification system to verify the work eligibility status of new employees as required by law. If at any time during the period of this contract, contractor fails to remain registered in or to participate in the status verification system or to maintain on file any required affidavit, city may terminate the contract for cause or, in the alternative, city may suspend work under the contract until contractor shows compliance with the requirements of this section. City shall not be responsible for any costs, damages, expenses, losses or other claims resulting from contract termination or contract suspension resulting from contractor's failure to comply with the status verification system requirements or to have on file any required affidavit, nor shall contract time be extended by virtue of such failure to comply with the requirements of this section.

- C. Furnishing of W-9. Payment under this Agreement is contingent upon Contractor furnishing City with a signed and completed W-9 IRS tax form. Such form shall be attached hereto and incorporated herein. Contractor shall cooperate with City in furnishing any additional information City may need to comply with rules and regulations of the Internal Revenue Service.

PART 2 TIME AND MONEY CONSIDERATIONS

2.1 CONTRACT PRICE

- A. The contract price includes the cost of the work specified in the Contract Documents, plus the cost of all bonds, insurance, permits, fees, and all charges, expenses or assessments of whatever kind or character. The Owner shall pay the Contractor, as full consideration for the performance of this contract, the contract bid price per item as shown in the proposal, for the quantities of work actually performed and accepted.
- B. The schedules of prices awarded from the Bid Schedule (Document 00 41 10) are as follows:
 - 1. Base Bid is: \$ _____
 - 2. Additive Alternate No. 1 is: \$ _____
 - 3. Total Contract Amount is: \$ _____
- C. An Agreement Supplement (Document 00 50 50) [_____] is, [_____] is not attached to this Agreement.
- D. Based upon the above awarded schedules and the Agreement Supplement (if any), the contract price awarded is: _____ dollars and _____ cents. (\$ _____).

2.2 CONTRACT TIME

- A. Contract Time shall be:
 - a. _____ calendar days after the date of the Notice to Proceed; or
 - b. Terminate at mid-night of the ____ day of _____, _____.
- B. Any time specified in work sequences in the Summary of Work (Section 01 11 00) shall be a part of the Contract Time.

2.3 PUNCH LIST TIME

- A. The work will be complete and ready for final payment within 30 calendar days after the date Contractor receives Engineer's Final Inspection Punch List unless exemptions of specific items are granted by Engineer in writing or an exception has been specified in the Contract Documents.
- B. Permitting the Contractor to continue and finish the work or any part of the work after the time fixed for its completion, or after the date to which the time for completion may have been extended, whether or not a new completion date is established, shall in no way operate as a waiver on the part of the Owner of any of Owner's rights under this Agreement.

2.4 LIQUIDATED DAMAGES

- A. Late Completion: Time is the essence of the Contract Documents. Contractor agrees that Owner will suffer damage or financial loss if the work is not completed on time or

within any time extensions allowed in accordance with Part 12 of the General Conditions (Document 00 72 00). Contractor and Owner agree that proof of the exact amount of any such damage or loss is difficult to determine. Accordingly, instead of requiring any such proof of damage or specific financial loss for late completion, Contractor agrees to pay the following sums to the Owner as liquidated damages and not as a penalty.

1. Late Contract Time Completion: Seven Hundred Fifty Dollars and No cents (\$750.00) for each calendar day or part thereof that expires after the Contract Time until the Work is accepted as Substantially Complete as provided in Article 14.5 of the General Conditions (Document 00 72 00).
2. Late Punch List Time Completion: 50% of the amount specified for late contract time completion for each calendar day or part thereof if the work remains incomplete after the Punch List time. The Punch List shall be considered delivered on the date it is transmitted by facsimile, hand delivery or received by the Contractor by certified mail.

B. Work Sequence Completion: Time is the essence of sequenced work. If a work sequence is specified, then for each day or part thereof that exceeds the specified time and until Engineer determines such work sequence is substantially complete, the Contractor agrees to pay the following sums to the Owner as liquidated damages and not as a penalty.

1. Work Sequence 1: _____ dollars and cents (\$ _____).
2. Work Sequence 2: _____ dollars and cents (\$ _____).
3. Work Sequence 3: _____ dollars and cents (\$ _____).

C. Survey Monuments: No land survey monument shall be disturbed or moved until Engineer has been properly notified and the Engineer's surveyor has referenced the survey monument for resetting. The parties agree that upon such an unauthorized disturbance it is difficult to determine the damages from such a disturbance, and the parties agree that Contractor will pay as liquidated damages the sum of \$1,000.00 to cover such damage and expense.

D. Interruption of Public Services: No interruption of public services shall be caused by Contractor, its agents or employees, without the Engineer's prior written approval. Owner and Contractor agree that in the event Owner suffers damages from such interruption, the amount of liquidated damages stipulated above shall not be deemed to be a limitation upon Owner's right to recover the full amount of such damages. Because of the difficulty in determining the Owner's damages resulting from an unapproved interruption, the parties agree payment of the following liquidated damages to Owner on

a per calendar day basis does not relieve Contractor from any liability for such a utility interruption to third parties. In the event that any third party successfully makes a claim against Owner for such interruption, Contractor shall be responsible for payment of claims.

1. Water: \$.00
2. Sewer: \$.00
3. Storm Drain: \$.00
4. Street Lighting: \$.00
5. Communications: \$.00
6. Electrical: \$.00
7. Other: \$.00

E. Deduct Damages from Moneys Owed Contractor: Owner shall be entitled to deduct and retain liquidated damages out of any money which may be due or become due the Contractor. To the extent that the liquidated damages exceed any amounts that would otherwise be due the Contractor, the Contractor shall be liable for such amounts and shall return such excess to the Owner.

2.5 RETAINAGE

A. Retainage is Owner's Option: Owner may, in its sole discretion, retain 5 percent of the value of all work done and materials or equipment supplied as part security for the fulfillment of the Construction Contract by the Contractor. If, in Engineer's opinion, the work is proceeding in accordance with Contractor's approved progress schedule, and all progress schedule submittals are current and up to date, and all required payrolls, Shop Drawings, and miscellaneous submittals are current and up to date, the Owner may choose not to withhold retainage.

1. Amount to be Retained: If at any time after 50% of the work has been completed, and \$50,000 or more has been retained, Owner may make any of the remaining progress payments in full, if, in the Owner's sole discretion, the work is progressing satisfactorily. Owner may pay monthly to the Contractor while carrying on the Work, the balance not retained as aforesaid, after deducting therefrom all previous payments and all sums to be kept or retained under the provisions of the Construction Contract. No such estimate of payment shall be required to be made when, in the judgment of the Engineer, the work is not proceeding in accordance with the Contract Documents or when in Engineer's judgment the total value of the work done since the last estimate amounts to less than \$300. No such estimate or payment shall be construed to be an acceptance of any defective or improper work or materials.
2. Reducing the Retainage: As the work nears completion and solely at the

Engineer's discretion, the Owner may reduce the retainage to an amount more in line with the Work actually remaining.

3. Retainage Held Until Final Payment: The Owner reserves the right to retain all amounts previously withheld or due the Contractor, including liquidated damages, until all Punch List items are complete. However, at Engineer's sole option, Engineer may authorize the release of up to all retained amounts except any liquidated damages and double Engineer's best estimate of the Contractor's cost to complete all remaining Punch List items.
- B. Interest: Except when Contractor is required to submit a Waiver of Interest Affidavit (Document 00 45 10), and except for money retained for items not provided or installed in accordance with the Contract Documents, any money retained by the Owner will be placed in an interest bearing account held by the Owner as of the date such money would have otherwise been payable. The interest accrued thereon will be due and payable to the Contractor within 30 days after the retained monies are paid.

2.6 PAYMENT PROCEDURES

- A. Progress Payments: Contractor shall submit applications for payment in accordance with Part 14 of the General Conditions (Document 00 72 00) and Section 01 29 00 (2017 Manual of Standard Specifications by the Utah Chapter of the American Public Works Association). Payment shall not become due or payable for any contract item not provided or installed by Contractor. If required by the Owner, any request or application by the Contractor for a partial payment shall be accompanied and supported by data establishing payment or satisfaction of all Contractor obligations for payroll, bills for materials and equipment, and other indebtedness, with such data establishment to be evidenced by receipts, releases and waivers of lien, arising out of the contract, to the extent and in such form as may be designated as acceptable and satisfactory by the Owner. The Owner may require such data, including but not limited to, and executed, completed lien waiver and release from all subcontractors, lower-tier subcontractors and suppliers. The submission of these items, if requested by the Owner with the Contractor's application or request for a partial payment shall constitute a condition precedent to the Contractor's right to any such partial payment, and any particular application or request for partial payment submitted without these items, if so requested by the Owner, shall be deemed incomplete.
1. Withholding Payment: Owner reserves the right to withhold payment from Contractor for noncompliance with any provision of the Contract Documents.
 2. Price Adjustments: Owner will consider making partial payment to the Contractor for certain non-conforming work in advance of any negotiated settlement reached between the Contractor and the Owner, provided the Contractor requests in writing that this be done. Contractor agrees that any such payments made by the Owner are "payments in advance" and that any money

which becomes due when the final settlement is negotiated will not constitute payments "withheld" or "retained" under State law.

- B. Final Payment: After completion of all work and Punch List items, Owner shall pay the contract price due after deducting there from all previous payments, unit price quantity adjustments, penalties, liquidated damages, and other amounts to be retained. All prior progress payments shall be subject to correction in the final payment. The final payment shall not be due and payable until the expiration of 30 days from approval of the request for final payment of Contractor by the Owner's finance department. Final payment, constituting the entire unpaid balance of the contract sum, shall be paid by the Owner to the Contractor when the work has been completed, the contract fully performed, and a final certificate for payment has been issued by the Engineer. Neither the final payment nor the remaining retainage shall become due until the Contractor submits to the Owner through the Engineer and Purchasing Agent of the Owner, (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work for which the Owner might in any way be responsible, have been paid or otherwise satisfied, (2) consent of surety to final payment, and (3) if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the contract, to the extent and in such form as may be designated by the Owner. If after substantial completion of the work, final completion thereof is materially delayed through no fault of the Contractor or by the issuance of change orders affecting final completion, and the Engineer so confirms, the Owner shall, upon application by the Contractor and certification by the 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 for work not fully completed or corrected is less than the retainage stipulated in the contract documents, and if bonds have been furnished, the written consent of the Surety of the payment of the balance due for that portion of the work fully completed and accepted shall be submitted by the Contractor to the Engineer prior to certification of such payment. Such payment shall be made under the terms and conditions governing payments as heretofore set forth, except that it shall not constitute a waiver of claims. The making of final payment shall constitute a waiver of all claims by the Owner except those arising from: (1) unsettled liens; (2) faulty or defective work; (3) failure of the work to comply with the requirements of the contract documents; or (4) terms of any special warranties required by the contract documents. The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final application for payment. All provisions of this agreement, including without limitation those establishing obligations and procedures, shall remain in full force and effect notwithstanding the making or acceptance of final payment.

1. Submittal: Final payment shall not be made until the Contractor has delivered

and Engineer has accepted all submittals specified in Article 14.8 of the General Conditions (Document 00 72 00).

2. Owner Released From Claims: The payment and acceptance of the final Contract Price due and the adjustment and payment for any work done in accordance with any alterations of the same, shall release the Owner from any and all claims of Contractor on account of work performed under the Contract Documents or any modification thereof, except for those claims specifically agreed to as reserved and unresolved by the Owner.

2.7 EXTRA WORK

- A. No money will be paid to the Contractor for any additions, deletions or revisions in the Work as stipulated in Article 10.1 of the General Conditions (Document 00 72 00), unless a contract modification for such has been made in writing and executed by the Owner and Contractor.

PART 3 COVENANTS

3.1 ASSIGNMENT NOT BINDING WITHOUT WRITTEN CONSENT

- A. Owner and Contractor agree no assignment of any right or interest in the Contract Documents will be made without the written consent of the Owner and the Contractor. No assignment will release or discharge the Owner or the Contractor from any duty or responsibility under the Contract Documents unless specifically stated to the contrary in any written consent to an assignment.
- B. Contractor shall make no assignment of money that is due without the Owner's written consent (except to the extent that the effect of this restriction may be limited by law or regulation).

3.2 BINDING TERMS

- A. The Agreement, with all its forms, plans, specifications and stipulations, shall be binding upon the heirs, executors, administrators, successors and assigns of the respective parties.

3.3 INDEMNIFICATION

- A. Provisions concerning indemnification are set forth in Article 6.17 of the General Conditions (Document 00 72 00) and as modified per Ogden City's Engineering Standards for Public Improvements 2020 Edition.

3.4 DISPUTE RESOLUTION

- A. In General:

1. Unless a decision shall be held by an appropriate court of law to have been procured by fraud or to be arbitrary and capricious or so grossly erroneous as necessarily to imply bad faith, any factual decision made under this Article shall be final and binding in any suit or action arising under this Construction Contract, including any actions by Contractor or others against Owner or any of Owner's agents, consultants, or employees.
 2. Compliance with provisions of this Article shall be a condition precedent prior to any legal action by the Contractor or any of Contractor's Subcontractors and Suppliers against Owner or any of Owner's agents, consultants, or employees.
 3. The provisions of this Article shall not preclude or limit judicial review of issues of law.
 4. Ambiguities in or between Contract Documents shall be construed in favor of the Owner.
- B. Disputes Not Related to the Guarantee of the Work: Any dispute arising under the Construction Contract concerning a question of fact, not related to the guarantee of the work (Article 13.1 of the General Conditions (Document 00 72 00)), which is not disposed of by contract modification shall be decided pursuant to the following procedure.
1. Any decision by Engineer interpreting the requirements of the Contract Documents may be appealed in writing to the Engineer. The Engineer's decision shall be reduced to writing and a copy shall be mailed or otherwise furnished to the Contractor. The decision of Engineer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to Engineer a written appeal to the head of the Owner's department responsible for constructing the project.
 2. Within 15 days from the receipt of any such appeal, the department head shall issue a decision in writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the department head shall be final and conclusive unless, within 15 days from the date of receipt of such decision, the Contractor mails or otherwise furnishes to the department head a written appeal to the Standing Appeals and Dispute Committee.
 3. The Standing Appeals and Dispute Committee shall consist of the Owner's Attorney, the Director of Public Services, and the City Engineer or their designees.
 4. The department head issuing the decision appealed from shall present the department's case prior to deliberations of the Committee, otherwise the department head shall be disqualified and excluded from the Committee's decision process.
 5. The decision of said Committee shall be rendered in writing within 15 days from

receipt of the appeal and mailed or otherwise delivered to the Contractor.

6. The decision of said Committee shall be the final binding interpretation of the facts which are the subject of the appeal.
- C. Disputes Related to the Guarantee: Except as otherwise provided by contract Modification, any dispute concerning a question of fact involving or arising out of the guarantee required by the Contract Documents (Article 13.1 of the General Conditions (Document 00 72 00)), which is not disposed of by contract modification shall be decided pursuant to the provisions of Paragraph 3.4B above, except that the initial factual decision shall be issued in writing by the Engineer, together with the department head. Any appeal therefrom shall be made within 15 days directly to the Standing Appeals and Dispute Committee where such disputes shall be governed by Paragraphs 3.4B.3 to 3.4B.6 above.
- D. Work During Appeal: Notwithstanding the pendency of any protest or appeal provided above, Contractor shall, if so ordered by Engineer, proceed with the work under the Contract Documents according to Engineer's direction and according to the decision on any appeal. The existence of a claim or protest shall not excuse Contractor from the requirements of the Contract Documents, including, but not limited to, the Contract Time.
- E. Appeals of Termination or Suspension: Any decision of Owner to terminate or suspend the work shall not be subject to the provisions of this Article.

3.5 ATTORNEY'S FEES

- A. In the event that either party institutes any action or proceeding against the other relating to the breach of any term of this agreement, then the unsuccessful party in such action or proceeding agrees to reimburse the successful party for the reasonable expenses of such action including reasonable attorney fees, incurred therein by the successful party.

PART 4 EXECUTION

4.1 EFFECTIVE DATE

A. Owner and Contractor executed this Agreement and declared it in effect as of the _____ day of _____, 20__.

In Witness Whereof, we have hereunto set our hands and seal at Ogden City, Utah, on the day and year first above written:

OGDEN CITY CORPORATION, Owner

By _____

**Mark Johnson
Chief Administrative Officer**

Attest:

Ogden City Recorder, Tracy Hansen

Contractor _____

By _____

Printed Name _____

Title _____

Attest: If Corporation _____

Witness: if individual or partnership

DOCUMENT 00 61 00
PERFORMANCE BOND

Know All Men By These Presents,

That _____
as Contractor, and _____ as Surety,
are held firmly bound unto Ogden City, a Utah Municipal Corporation, hereinafter referred to as
the "Owner" in the sum of _____
dollars, (\$) _____) for the payment of which sum, well and truly to be made, we
bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and
severally, firmly by these presents.

Whereas, said Contractor has been awarded and is about to enter into the annexed Agreement
with the Owner to perform all work required under said Agreement entitled, Monroe Sidewalk.

Now, Therefore, if said Contractor shall perform all the requirements of said contract required to
be performed on his part, at the times and in the manner specified therein, then this obligation
shall be null and void, otherwise it shall remain in full force and effect.

Provided, that any alterations in the work to be done or the materials to be furnished, or changes
in the time or completion, which may be made pursuant to the terms of said Contractor, shall not
in any way release said Contractor or said Surety thereunder, nor shall any extensions of time
granted under the provisions of said contract release either said Contractor or said Surety, and
notice of such alterations or extensions of the contract is hereby waived by said Surety.

Signed and Sealed, this _____ day of _____, 20__.

(Contractor)

(Surety)

By: _____
(Signature)

(Signature)

Note: 1. Signatures must be notarized - See attached page; 2. Attach current Power-of-Attorney

Acknowledgments

Contractor Acknowledgment
(Corporation)

State Of _____)
)ss.
County Of _____)

On the _____ day of _____, 20__, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of _____, a corporation, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution (or bylaws) of its Board of Directors; and said person acknowledged to me that said corporation executed the same.

My Commission Expires: _____ Notary Public, residing in _____

Surety Acknowledgment
(Corporation)

State Of _____)
)ss.
County Of _____)

On the _____ day of _____, 20__, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of _____, a corporation, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution (or bylaws) of its Board of Directors; and said person acknowledged to me that said corporation executed the same.

My Commission Expires: _____ Notary Public, residing in _____

Attorney-In-Fact
Affidavit of Qualification

State Of _____)

)ss.

County Of _____)

_____ being first duly sworn on oath deposes and says that he is the Attorney-in-Fact of _____ and that he is duly authorized to execute and deliver the foregoing obligation; that said Company is authorized to execute the same, and has complied in all respects with the laws of Utah in reference to becoming sole surety upon bonds, undertakings and obligations.

Attorney-in-Fact

Subscribed and sworn to before me this _____ day of _____, 20__.

My Commission Expires:

Notary Public, residing in

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DOCUMENT 00 62 00
PAYMENT BOND

Know All Men By These Presents,

That _____
as Contractor, and _____ as Surety,
are held firmly bound unto Ogden City, a Utah Municipal Corporation, hereinafter referred to as
the "Owner" in the sum of _____
dollars, (\$ _____) for the payment of which sum, well and truly to be made,
we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and
severally, firmly by these presents.

Whereas, said Contractor has been awarded and is about to enter into the annexed Agreement
with the Owner to perform all work required under those Contract Documents entitled: Monroe
Sidewalk.

Now, Therefore, if said Contractor, or subcontractor, fails to pay for any materials, equipment, or
other supplies, or for rental of same, used in connection with the performance of work contracted
to be done, or for amounts due under applicable state law for any work or labor thereon, said
Surety will pay for the same in an amount not exceeding the sum specified above, and in the
event suit is brought upon this bond, reasonable attorneys fees. This Bond shall inure to the
benefit of the Owner and any person, companies, or corporations entitled to file claims under
applicable state law.

Provided, that any alterations in the work to be done or the materials to be furnished, or changes
in the time or completion, which may be made pursuant to the terms of said Contractor, shall not
in any way release said Contractor or said Surety thereunder, nor shall any extensions of time
granted under the provisions of said contract release either said Contractor or said Surety, and
notice of such alterations or extensions of the contract is hereby waived by said Surety.

Signed and Sealed this _____ day of _____, 20__.

(Contractor)

(Surety)

By: _____
(Signature)

(Signature)

Note: 1. Signatures must be notarized - See attached page; 2. Attach current Power-of-Attorney

Acknowledgments
Contractor Acknowledgment

(Corporation)

State Of)
)ss.
County Of)

On the _____ day of _____, 20___, personally appeared before me
_____, who being by me duly sworn, did say
that he is the _____ of _____, a
corporation, and that the foregoing instrument was signed in behalf of said corporation by
authority of a resolution (or bylaws) of its Board of Directors; and said person acknowledged to
me that said corporation executed the same.

My Commission Expires _____ Notary Public, residing in _____

Surety Acknowledgment

(Corporation)

State Of)
)ss.
County Of)

On the _____ day of _____, 20___, personally appeared before me
_____, who being by me duly sworn, did say
that he is the _____ of _____, a
corporation, and that the foregoing instrument was signed in behalf of said corporation by
authority of a resolution (or bylaws) of its Board of Directors; and said person acknowledged to
me that said corporation executed the same.

My Commission Expires: _____ Notary Public, residing in _____

Attorney-In-Fact
Affidavit of Qualification

State Of _____)

)ss.

County Of _____)

_____ being first duly sworn on oath deposes and says that he is the Attorney-in-Fact of _____ and that he is duly authorized to execute and deliver the foregoing obligation; that said Company is authorized to execute the same, and has complied in all respects with the laws of Utah in reference to becoming sole surety upon bonds, undertakings and obligations.

Attorney-in-Fact

Subscribed and sworn to before me this _____ day of _____, 20__.

My Commission Expires:

Notary Public, residing in

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DOCUMENT 00 65 00
CERTIFICATE OF INSURANCE

PART 1 GENERAL

1.1 PROCEDURE

- A. For filing purposes, add Certificates of Insurance to the Contract Documents following this page. (Refer to Ogden City's Engineering Standards for Public Improvements 2020 Edition for requirements as reproduced below)

1.2 PART 5 BONDS AND INSURANCE (From General Conditions Section 00 72 00)

- 5.1 PERFORMANCE, PAYMENT, AND OTHER BONDS (Article 5.1 of the General Conditions is hereby repealed and the following is submitted therefore)

- A. Prior to OWNER executing the Agreement, CONTRACTOR shall file with the OWNER a good and sufficient performance Bond and a payment Bond, each in the sum of not less than 100 percent of the Contract Price.
- B. The Bonds shall be executed by the CONTRACTOR and secured by a company duly and regularly authorized to do a general surety business in the State of Utah and named in the current list of Companies holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies as published in current Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department, with an underwriting limitation equal to or greater than the Contract Price which the Bond guarantees or with a current "A-" rating or better in A.M. Best Co., Inc.'s, Best Insurance Reports, Property and Casualty Edition.
- C. Said Bonds shall guarantee the faithful performance of the Construction Contract by the CONTRACTOR and payment of labor and materials. They shall inure by their terms to the benefit of the OWNER. Neither this nor any other provision requiring a performance Bond shall be construed to create any rights in any third party Claimant as against the OWNER for performance of the Work under the Construction Contract.
- D. If the surety on any Bond furnished by CONTRACTOR is subject to any proceeding under the Bankruptcy Code (Title 11, United States Code) or becomes insolvent or its right to do business is terminated in the State of Utah or it ceases to meet the requirements of this Article, CONTRACTOR shall, within 15 days thereafter, substitute another Bond and surety, both of which must be acceptable to OWNER.

- 5.2 INSURANCE (Article 5.2 of the General Conditions is hereby repealed and the following is substituted therefore)

- A. **In General:** All policies of insurance provided shall be issued by insurance companies qualified to do business in the State of Utah and listed on the U.S. Treasury Department's current Department of Treasury Fiscal Services List 570, or having a general policy holder's rating of not less than "A-" in the most current available A. M. Best Co., Inc.'s, Best's Insurance Report.
- a. Each insurance policy required by the Agreement, excepting policies for Workers' Compensation and Professional Liability, shall include an

endorsement providing that Ogden City, its elected and appointed officials, employees, agents and volunteers are to be named as additional insured as respect to operations and activities of, or on behalf of, the named insured as performed under Agreement with the City.

- b. Insurance is to be placed with insurers acceptable to and approved by the CITY. CONTRACTOR's insurer must be authorized to do business in Utah at the time the contract is executed and throughout the time period the contract is maintained, unless otherwise agreed to in writing by the CITY. Failure to maintain or renew coverage or to provide evidence of renewal will be treated by CITY as a material breach of contact.
- c. The CITY shall be furnished with original certificated of insurance and endorsements effecting coverage required within, signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received by the CITY before signing the Agreement.
- d. Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the option of the CITY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the CITY, its elected and appointed officials, employees, agents and volunteers; or CONTRACTOR shall provide a financial guarantee satisfactory to the CITY guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- e. In addition to any other remedies CITY may have if CONTRACTOR fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time limits required, CITY may, at its option:
 1. Obtain such insurance, deduct and retain the amount of premiums for such insurance from any sums due under the Agreement,
 2. Order CONTRACTOR to stop work under this Agreement and/or withhold any payment(s) which become due to CONTRACTOR until CONTRACTOR demonstrates compliance with requirements,
 3. Terminate this Agreement
 4. Or other reasonable remedy
- f. CONTRACTOR shall include all subcontractors and insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
- g. Nothing contained herein shall be construed as limiting in any way the extent to which CONTRACTOR may be held responsible for payments of damages to persons or property resulting from CONTRACTOR's or its subcontractor's performance of the work covered under this Agreement.
- h. If requested, CONTRACTOR shall also furnish copies of the insurance policies secured for the Work. The CITY reserves the right to require complete, certified copies of all required insurance policies at any time. CONTRACTOR shall procure and maintain for the duration of the contact, insurance against claims for injuries to persons or damages to property, which may arise from or

in connection with the performance of the work hereunder by the CONTRACTOR, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in CONTRACTOR's Bid. The amount of the insurance shall not be less than the following:

1. **Worker's Compensation Insurance:** In addition to other required insurance, the CONTRACTOR shall obtain and maintain during the life of the Construction Contract, worker's compensation insurance as required by Laws and Regulations for all of CONTRACTOR's employees employed at the site of the Work, and in case any Work is subcontracted, the CONTRACTOR shall require the subcontractor similarly to provide worker's compensation insurance for all of the latter's employees, unless such employees are covered by protection as required by Laws and Regulations. Worker's compensation limits as required by the Labor Code of the State of Utah and employers' liability limits are \$1,000,000 per accident.
 2. **Business Automobile Liability:** \$1,000,000.00 combined single limit per accident for bodily injury and property damage for owned, non-owned and hired vehicles.
 3. **Commercial General Liability Insurance:** CONTRACTOR shall secure and maintain during the life of the Construction Contract and at all times thereafter when CONTRACTOR may be correcting, removing or replacing Defective Work, a comprehensive commercial general liability insurance policy. The policy shall protect the CONTRACTOR, the OWNER, the ENGINEER, and any subcontractor performing work covered by the Construction Contract from claims for damages for personal injury, including accidental death, and from claims for property damage which may arise from CONTRACTOR's operations under this Construction Contract, whether such operations be by itself or by any Subcontractor or by anyone directly or indirectly employed by either of them. Unless specified otherwise in the Supplementary Conditions, the minimum amounts of such insurance for combined single limit per occurrence shall be \$1,000,000.00 for bodily injury, personal injury and property damage and \$3,000,000 general aggregate.
- i. The policies are to contain, or be endorsed to contain, the following provisions:
 - a. The Contractor's insurance coverage shall be primary insurance and any insurance or self-insurance maintained by the City, its officers, official, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with insurance provided by this policy. Each policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
 - b. Policy to include coverage for premises and operations. Contractual liability, personal injury liability, products/completed operations liability, broad-form property damage (if applicable) and independent

- Contractor's liability (if applicable) written on an occurrence form.
- c. Any deductibles or self-insured retention must be declared to and approved by the City. Insurance is to be placed with insurers acceptable to and approved by the City. The City shall be furnished with certificates of insurance and with original endorsements affecting coverage required within, signed by a person authorized by the insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies at any time.
 - d. The CONTRACTOR shall include all subcontractors as insured under its policies or shall furnish separated certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
 - e. **Automotive Public Liability Insurance:** Whenever CONTRACTOR or any subcontractor shall use and operate automobiles, trucks or other vehicles on public streets and highways in complying with the terms and conditions of the Construction Contract, CONTRACTOR or each subcontractor shall carry automobile public liability insurance with limits not less than \$1,000,000.00 for any one accident or loss.
 - f. **Insurance Non-cancelable for 30 Days:** Each policy of insurance provided in the Contract Documents shall be absolutely non-cancelable for a period of not less than 30 days after notice and shall contain the following provisions or one substantially the same as the following: *"This policy shall not be subject to cancellation, change, or reduction of coverage by the other party or parties hereto, unless notice, as defined herein is sent to the OWNER, with a copy to the ENGINEER and the OWNER's attorney."*
 - g. **Builder's Risk:** CONTRACTOR agrees to and assumes the risk of loss for any damage or loss to the Work and Project by any means or occurrence until Substantial Completion. If this contract includes construction of an above ground structure, CONTRACTOR further agrees to obtain builder's risk or course of construction insurance in the total amount of the Contract Price.
 - h. **Ogden City Corporation Additional Insured:** Each policy of insurance provided in the Contract Documents shall also protect the government of O.C.C. during the life of the Construction Contract and at all times thereafter from public liability and property damage claims indicated in paragraph 5.2D, and automotive public liability damage claims indicated in paragraph 5.2E above.

END OF DOCUMENT

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DOCUMENT 00 72 00

GENERAL CONDITIONS

PART 1 GENERAL

1.1 DEFINED TERMS

- A. Wherever used in these General Conditions or in the other Contract Documents the following terms have the meanings indicated which are applicable to both the singular and plural thereof. Any additions or changes to these General Conditions which appear in *italics* are taken from The current edition of Ogden City's Standards for Public Improvements. These italicized amendments or additions will supersede any terms, instructions or information printed in the 2017 Manual of Standard Specifications by the Utah Chapter of the American Public Works Association(2017).
- B. .
1. Addenda: Written or graphic instruments issued prior to the opening of Bids which clarify, correct or change the Contract Documents. *The term Addendum shall include bulletins and all other types of written notices issued to potential Bidders prior to opening of Bids.*
 2. Agreement: A written instrument which is part of the Contract Documents, and which when signed by the OWNER and CONTRACTOR, establishes the contract price, the Contract Time, the Punch List time, the identity of the ENGINEER and other matters pertaining to the construction contract.
 3. Agreement Supplement: A written instrument executed by OWNER and Bidder in the time period between the opening of Bids and the signing of the Agreement which clarifies, corrects or changes the Contract Documents.
 4. Application for Payment: The form accepted by ENGINEER which is to be used by CONTRACTOR in requesting progress or final payments and which is to include such supporting documentation required by the Contract Documents.
 5. 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.
 6. Bid: The offer of the Bidder submitted on the prescribed form setting forth the price for the work to be performed.
 7. Bid Documents: The documents defined in the Bid, together with all Addenda and supplements issued prior to the effective date of the Agreement.
 8. Bid Security: Bid bond or cashier's check in an amount equal to a minimum of 5 percent of the Bid price.
 9. Bidder: Any person, firm, joint venture or corporation submitting a Bid directly to the OWNER, as distinct from a sub-bidder who submits a Bid to a Bidder.
 10. Bonds: Bid, Performance and Payment Bonds, cashiers or certified bank check and other instruments of security.
 11. Change Order: A written instrument prepared by the ENGINEER signed by CONTRACTOR and OWNER on or after the effective date of the construction contract, which authorizes an addition, deletion, or revision in the work, or an adjustment in the contract price, Contract Time or both.

12. Claimant: An individual or entity having a direct contract with the CONTRACTOR or with a subcontractor or supplier of the CONTRACTOR to furnish labor, materials, supplies or equipment for use in the performance of the work. The intent of this definition shall be to include without limitation in the terms “labor, materials, supplies or equipment” that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the work, architectural and engineering services required for performance of the work of the CONTRACTOR and the CONTRACTOR’s subcontractors, and all other items for which a claim may be asserted where the labor, materials, supplies or equipment were furnished.
13. Construction Contract: The entire and integrated compact between the OWNER and CONTRACTOR, memorialized in the Contract Documents concerning the work to be performed which supersedes prior negotiations, representations of agreements, either written or oral.
14. Contract Documents: The Bid documents, Agreement, Agreement Supplement, General Conditions, supplementary conditions, Specifications, Standard Specifications, Drawings, Standard Plans together with all modifications issued pursuant to Article 3.3 herein after the effective date of the construction contract.
15. Contract Price: The total money payable by OWNER to the CONTRACTOR under the Contract Documents as stated in the Agreement and subject to the provisions of Paragraph 11.7A herein in the case of unit price work.
16. Contract Time: The number of consecutive calendar days or the date specified in the Agreement for substantial completion of the work.
17. CONTRACTOR: The person, firm or corporation named as such in the Agreement. *If the provisions are applicable to work performed by City personnel, under a permit or as a condition of development, the term shall also include the person, firm or corporation responsible for such work.*
18. Cost of the Work: The sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the work. See Article 11.4.
19. Day: Any 24-hour period measured from midnight to the next midnight.
20. Defective: An adjective which when modifying the word “work” refers to work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the contract documents, or has been damaged prior to ENGINEER’s final inspection (unless responsibility for the protection thereof has been assumed by OWNER at substantial completion in accordance with Paragraph 14.5A or 14.6B).
21. Drawings: The graphic and pictorial portions of the Contract Documents prepared or approved by ENGINEER, showing the design, location and dimensions of the work, and generally include the plan, elevations, sections, details, schedules and diagrams. Drawings are also known as plans.
22. Effective Date of the Construction Contract: The date indicated in the Agreement on which the construction contract becomes effective. If no such date is indicated, it means the date on which the construction contract is signed and delivered by the last of the two parties to sign and deliver.

23. ENGINEER: The person, firm or corporation designated in the Agreement as the OWNER's representative and agent for the construction contract, acting within the scope of the particular duties entrusted to such a person, firm or corporation. The person may be a licensed architect, licensed landscape architect, licensed ENGINEER, licensed land surveyor or other individual. *For Subdivisions and other projects issued under an engineering permit with Ogden City, which do not have an executed Agreement as noted above, the responsibilities of ENGINEER shall reside with Ogden City's Development ENGINEER.*
24. Final Inspection: An inspection of the work (or agreed-to-portion), conducted by ENGINEER, after work (or agreed-to-portion) is substantially complete.
25. General Requirements: Sections of Division 1 of the Standard Specifications and Specifications.
26. 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.
27. Inspection: The term "inspection" or its derivatives means a review of the project including, but not limited to, a visual review of the work completed to date. It does not include or imply an exhaustive or detailed review of the work, nor does it create a duty on the part of the ENGINEER or OWNER to detect latent defects.
28. Laws and Regulations; Laws or Regulations: Any federal, state, county, city or local jurisdiction's laws, rules, regulations, ordinances, codes and orders.
29. Lien: A charge, security interest or encumbrance upon materials or equipment.
30. Lump Sum Work: Work to be paid for on the basis of a stipulated price.
31. Major Unit Price Item of Work: Any item of unit price work which has total value greater than 5 percent of the initial contract price.
- 31.a. Measurement of Failure: *The act of performing quality assurance through measurement by the City ENGINEER in accordance with the Specifications for Work which meet the definition of Failure as in the Amendments and Clarifications to the APWA or Defective as defined in the Standard Specifications.*
32. Milestone: A principal event specified in the contract documents relating to an intermediate completion date or time prior to substantial completion of the work.
33. Modification: Any Addendum, Agreement Supplement, Change Order, or Work Directive Change.
34. Notice of Intent to Award: The written notice by OWNER to the apparent successful Bidder stating that on compliance by the apparent successful Bidder with the conditions precedent enumerated therein, within the time specified, OWNER will sign and deliver the construction contract.
35. Notice to Proceed: A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Time will commence and on which CONTRACTOR shall start to perform CONTRACTOR's obligations under the Contract Documents.
36. OWNER: The public body or authority, corporation, association or firm with whom CONTRACTOR has entered into the Agreement and for whom the work is to be provided.
- 31.a. OWNER: *Ogden City, a Utah Municipal Corporation.*

37. Partial Utilization: Placing a portion of the work in service for the purpose for which it is intended (or a related purpose) before reaching substantial completion for all the work.
38. PCBs: Polychlorinated biphenyl.
39. Petroleum: Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (to deg. 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 wastes and crude oils.
40. Plans: Drawings. *Graphic and pictorial productions from the ENGINEER or DEVELOPER, prepared or approved by the City, showing the design, location and dimensions of the Work, and generally include, the plan, elevations, sections, details, schedules and diagrams.*
41. Project: The total construction of which the work to be provided under the Contract Documents may be the whole, or a part.
42. Project Manual: The bound documentary package prepared for bidding and constructing the work.
43. a. Public Works Inspector: *The resident project representative furnished by the ENGINEER and assigned the duties of "inspection".*
43. Punch List: The list of unacceptable, incorrectly accomplished, damaged or unfinished work items compiled by ENGINEER at final inspection.
44. Punch List Time: The number of days specified in the Agreement for the completion of the final inspection Punch List work.
45. 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.
46. Regular Working Hours: Computation of regular working hours shall be based upon a 40-hour work week.
47. Resident Project Representative: The representative of ENGINEER assigned to the site or any part thereof.
47. a. Schedule of Values: *The CONTRACTOR's best estimate of costs associated with various portions of the work.*
48. Shop Drawings: All Drawings, diagrams, illustrations, schedule and other data prepared by or for CONTRACTOR to illustrate some portion of the work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by suppliers and submitted by CONTRACTOR to illustrate material or equipment for some portion of the work.
49. Specifications: Those portions of the Contract Documents consisting of written requirements for materials, equipment, construction systems, standards and workmanship as applied to the work and certain administrative details applicable thereto. Bidding requirements, contract forms, and conditions of the contract are **not** Specifications.
50. Standard Plans: *The Drawings (both graphical and text) contained in the latest edition of the Manual of Standard Plans published by the Utah Chapter of the American Public Works Association; also in the Amendments to the Manual of Standard Plans entitled "Standard Drawings" amended by Ogden City.*

51. Standard Specifications: The Specifications contained in this manual following these General Conditions.
52. Subcontractor: An individual, supplier, firm or corporation having a contract with CONTRACTOR or with any other subcontractor for the performance of a part of the work.
53. Substantial Completion: A point in time when, in the opinion of the ENGINEER as evidenced by ENGINEER's written notice, the work (or a specified part thereof) has progressed to where it is sufficiently complete, and only occasional construction personnel and equipment are required for correcting unfinished or defective work. The remaining work will not interfere with the work area's intended use or occupancy. The terms "substantially complete" and "substantially completed" as applied to any work refer to substantial completion thereof.
54. Supplementary Conditions: The part of the Contract Documents that amends or supplements these General Conditions.
55. Supplier: A manufacturer, fabricator, distributor, material producer or vendor who provides products to the CONTRACTOR or subcontractors.
56. Underground Facilities: All pipelines, conduits, ducts, cables, wires, access chambers, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials; electricity, gases, steam, liquid petroleum products, telephone or other communication, cable television, sewage and drainage removal, traffic or other control systems or water.
57. Unit Price work: Work to be paid for on the basis of unit prices.
58. Work: The construction and services required to be furnished under the Contract Documents which may be the whole or part of the project. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, as required by the Contract Documents.
59. Work Completion: The work and all contractual obligations under the Contract Documents have been fulfilled and when final payment is due in accordance with Paragraph 14.9A.
60. Work Directive Change: A written directive to CONTRACTOR, issued on or after the effective date of the construction contract, prepared by the ENGINEER and signed by the OWNER, ordering an addition, deletion or revision in the work as provided in Article 10.1, or responding to differing or unforeseen physical conditions under which the work is to be performed as provided in Article 4.2 or 4.3 or to emergencies under Article 6.13. A work directive change requires agreement by the OWNER and the ENGINEER and may or may not be agreed to by the CONTRACTOR.

1.2 TERMS

- A. *Unless otherwise stated, the words directed, required, permitted, ordered, instructed, designated, considered necessary, prescribed, approved, acceptable, satisfactory, or words of like meaning, refer to actions, expressions, and prerogatives of the ENGINEER.*

1.3 APPLICABILITY

- A. *Document 00 72 00, "General Conditions" and Division 1, "General Requirements"*

shall apply to all public works projects performed under contract with the city and also projects done under permit with Ogden City Engineering for work done on City property or within the City right-of-way, except as otherwise required by City Ordinance or recommended by the City Attorney. Except for definitions and terms applicable to other provisions of the manual, its provisions shall have no application to other work not performed under contract or permit with the city as indicated above.

PART 2 PRELIMINARY MATTERS

2.1 DELIVERY OF BONDS AND INSURANCE

A. When CONTRACTOR delivers the executed Agreement to OWNER, CONTRACTOR shall also deliver required bonds and insurance certificates.

2.2 COPIES OF DOCUMENTS

- A. OWNER shall furnish to CONTRACTOR a digital copy of the Contract Documents unless hard copies are provided for in the Specifications. Additional copies will be available in electronic form for distribution from the OWNER at the request of CONTRACTOR.
- B. *OWNER shall not furnish to CONTRACTOR published Contract Documents which include the current editions of the Manual of Standard Plans the Manual of Standard Specifications and the Ogden City Standards. Such documents shall be purchased separately by the CONTRACTOR.*
- C. *Copies of all Contract Documents including the current edition of the Manual of Standard Plans, the Manual of Standard Specifications, and the Ogden City Standards shall be provided on site by the CONTRACTOR.*

2.3 COMMENCEMENT OF CONTRACT TIME – NOTICE TO PROCEED

- A. Contract Time: Time is the essence of the contract. Unless indicated otherwise in the Bid documents, Addendum, or in a Change Order, in no event will the Contract Time commence later than the 74th day after the day of bid opening or the 30th day after the effective date of the construction contract, whichever date is earlier.
- B. Notice to Proceed: A Notice to Proceed may be given at any time, even within 30 days after the effective date of the construction contract.

2.4 STARTING THE WORK

A. CONTRACTOR shall start to perform work on the date when the time for the Contract Time commences. No work shall be done at the site prior to that date.

2.5 BEFORE STARTING CONSTRUCTION

A. In General: Before starting each part of the work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error or discrepancy that CONTRACTOR may discover and shall obtain a written interpretation or clarifications from ENGINEER before proceeding with any work affected thereby.

- B. Submittals: Within 10 days after the effective date of the construction contract, CONTRACTOR shall submit to ENGINEER, in reasonable detail and form acceptable to ENGINEER, copies of the following documents.
1. Preliminary Progress Schedule: The preliminary progress schedule shall show starting and completion dates for each construction sequence and:
 - a. submittal dates and dates required for approved submittals for shop Drawings, product data and samples;
 - b. decision dates for products specified by allowances, selection of finishes and critical material or equipment release orders;
 - c. product procurement and delivery dates;
 - d. holiday cleanup preparations; and
 - e. specific dates for all special Inspections required prior to any utilities “turn-on” including temporary power.
 2. Preliminary Shop Drawing Schedule: A supplemental schedule to the preliminary progress schedule shall show all shop drawing submissions required for the work.
 3. Preliminary Schedule of Values: the preliminary schedule of values (for lump sum work), which includes provisions set forth in quantities and prices of items aggregating the contract price, shall subdivide the work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of work. Bond expense shall not be prorated, but shall be shown as a separate item.
 4. Mobilization Program: The site mobilization program shall allow for field office and trailer locations, material storage locations, power requirements for trailers, if any, and sanitary facilities.
 5. Permits: The listing of, and photocopies of permits that the CONTRACTOR is required to purchase and maintain in accordance with Article 6.7.
 6. Quality Control Program: The written program for the control of product quality and workmanship.
 7. Safety and Protection Plan: The safety and protection plan shall comply with Article 6.12.
- C. Field Office: *The CONTRACTOR shall establish and maintain a field office in such a location that ENGINEER may always contact the CONTRACTOR for transmittal of plans, instructions and dissemination of project information. CONTRACTOR shall provide and maintain a telephone, computer with e-mail capabilities and facsimile machine in the field office during performance of the work.*

2.6 PRECONSTRUCTION CONFERENCE

- A. Within 20 days after the Contract Time starts to run, but before starting any work, CONTRACTOR shall attend a conference with ENGINEER and others:
1. to discuss the schedules referred to in Paragraph 2.5B;
 2. to discuss procedures for handling shop Drawings and other submittals;
 3. to discuss procedures for processing applications for payment;
 4. to establish a working understanding among the parties as to the work;
 5. to review or discuss other items deemed necessary by ENGINEER or CONTRACTOR; and

6. to designate the name of the individual who shall be CONTRACTOR's resident superintendent at all times while work is in progress. When the CONTRACTOR is comprised of two or more persons, firms, partnerships or corporations functioning on a joint-venture basis, before starting the work, CONTRACTOR shall designate in writing the name of a representative who shall have the authority to represent and act for the joint venture persons, firms, partnerships or corporations at all times while work is in progress.

2.7 FINALIZING SCHEDULES

- A. At least 10 days before submission of the application for payment, CONTRACTOR shall attend a conference with ENGINEER and others as appropriate to finalize the schedules submitted in accordance with Paragraph 2.5B.
 1. Progress Schedule: The finalized progress schedule must be acceptable to ENGINEER as providing an orderly progression of the work to completion within the Contract Time. The critical path must be fully defined. Acceptance will neither impose on ENGINEER responsibility for the progress or scheduling of the work, nor release or relieve the CONTRACTOR from full responsibility therefore.
 2. Schedule of Shop Drawings: The finalized schedule of shop Drawings submissions must be acceptable to ENGINEER as providing a workable arrangement for processing the submissions.
 3. Schedule of Values: The finalized schedule of values shall conform to the requirements of Articles 11.4 and 11.5 and must be acceptable to ENGINEER in form and substance.

2.8 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

- A. Except as otherwise provided in the Contract Documents, or when direct communications have been specially authorized, the OWNER and CONTRACTOR shall communicate through the ENGINEER.
- B. Communication by and with ENGINEER's consultants shall be through the ENGINEER.
- C. Communications by and with subcontractors and suppliers shall be through the CONTRACTOR.
- D. Communications by and with separate CONTRACTORS shall be through the ENGINEER.

PART 3 CONTRACT DOCUMENTS, INTENT, AMENDING, REUSE

3.1 INTENT

- A. In General: It is the intent of the contract documents to describe a functionally complete project to be constructed in accordance with the contract documents.
- B. Contract Documents are Complementary: The Contract Documents are *complementary and cooperative and are intended to describe and provide for a complete project*; what is required by one document or provisions thereof is binding as if required by all the documents or provisions thereof. *Anything in the Specifications and not on the Plans, or on the Plans and not in the Specifications, shall be as though shown or mentioned in both.*

- C. Incidental Work: Any work, materials or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be supplied by CONTRACTOR at no additional cost to the OWNER whether or not specifically referenced.
- D. Technical or Trade Words: When words which have a well-known technical or trade meaning are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning.

3.2 RESOLVING DISCREPANCIES

- A. References: Reference to manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest manual, code or laws or regulations in effect at the time of opening of Bids (or on the effective date of the construction contract if there were no Bids), except as may be otherwise specifically stated.
- B. Duties of CONTRACTOR or ENGINEER Not Changed: No provision of any referenced manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of CONTRACTOR or ENGINEER from those set forth in the contract documents, nor shall it be effective to assign to ENGINEER, or any of ENGINEER's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the work or any duty or authority to undertake responsibility contrary to the provisions of Paragraphs 9.9C or 9.9D.
- C. Conflict, Error, Discrepancy, Omission in Contract Documents: If, during the performance of the work, or omission in the Contract Documents, CONTRACTOR shall so report to ENGINEER in writing at once. Before proceeding with work affected thereby CONTRACTOR shall obtain a written interpretation or clarification from ENGINEER as provided in Article 9.4.
 - 1. Dimensions on Drawings: In the event of any discrepancy between the measured dimensions on any drawing and the written dimensions shown thereon, the written dimensions shall be taken as correct.
 - 2. Detail Drawings: Detail Drawings, regardless of trade or item of work, shall prevail over general Drawings.
 - 3. Work Shown on the Drawings: Any part of the work which is not mentioned in the Bid documents or specifications, but which is shown on the Drawings, shall be furnished and installed by CONTRACTOR as if fully described in the Bid documents or specifications and at no additional cost to the OWNER.
 - 4. Irreconcilable Conflict: Only in case of irreconcilable conflict between provisions within the Contract Document or between Contract Documents, the intent of the Contract Documents shall be interpreted in accordance within the following priorities.
 - a. A particular modification shall govern over all Contract Documents or modifications issued prior to said particular modification.
 - b. These General Conditions shall govern over all Contract Documents except the Agreement, Agreement Supplement, supplementary conditions, Addenda and modifications.

- c. The Specifications shall govern over Drawings, Standard Specifications, and Standard Plans.
- d. The Drawings shall govern over the Standard Specifications and Standard Plans.
- 5. Notification Still Required: The priority provisions of Paragraph 3.2C4 above shall not relieve CONTRACTOR of notifying OWNER of such an irreconcilable conflict.
- D. Capitalization: Terms capitalized in these General Conditions include those which are (1) titles of OWNER, CONTRACTOR and ENGINEER, (2) the title of numbered Articles, and (3) the title of referenced documents. Capitalization is for emphasis only and shall not affect the meaning, content or effect of the Contract Document. If any terms are capitalized which do not fit within these categories, the capitalization shall be ignored.
- E. Headings: Any headings preceding the text of paragraphs in a Contract Document are inserted solely for convenience of reference and shall not affect its meaning, content or effect or be referred to in any interpretation thereof.

3.3 AMENDING AND SUPPLEMENTING CONTRACT DOCUMENTS

- A. The Contract Documents may be amended on or after the effective date of the construction contract to provide for additions, deletions and revisions in the work or to modify the terms and conditions thereof in one or more of the following ways:
 - 1. a Work Directive Change (Paragraph 10.1B); or
 - 2. a Change Order (Paragraph 10.1C).
- B. As indicated in Articles 11.2 and 1.21, contract price and Contract Time may only be changed by a Change Order.
- C. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the work may be authorized, in one or more of the following ways:
 - 1. ENGINEER's review of a shop drawing or sample (pursuant to Paragraphs 6.14F and 6.14G); or
 - 2. ENGINEER's written interpretation or clarifications (pursuant to Article 9.4).

3.4 REUSE OF DOCUMENTS

- A. Neither CONTRACTOR nor any subcontractor or supplier or other person or organization performing or furnishing any of the work under a direct or indirect contract with OWNER shall 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 for ENGINEER; and they shall not reuse any of them on extensions of the project or any other project without written consent of OWNER.

3.5 INTERPRETATION AND VENUE

- A. The Contract Documents will be construed in accordance with the laws of the State of Utah. Any court action arising from the construction contract shall be brought in an appropriate federal or state court with appropriate jurisdiction in which the OWNER resides.

PART 4 AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

4.1 AVAILABILITY OF LANDS

A. OWNER shall furnish the lands upon which the work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of CONTRACTOR in the Contract Documents. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by OWNER unless otherwise provided in the Contract Documents. In the event of OWNER's delay in furnishing these lands, rights-of-way or easements, if CONTRACTOR believes that any delay entitles CONTRACTOR to an increase in the contract price or an extension of the Contract Time, CONTRACTOR may make a claim therefore as provided in Parts 11 and 12 hereof. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.2 PHYSICAL CONDITIONS – GENERAL

- A. Explorations and Reports: Reference, when applicable, is made to geotechnical data in the Bid documents for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by ENGINEER in preparation of the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such reports at the locations and the indicated depths where the data was obtained, but not upon the other information, interpretations or opinions contained therein or for the completeness thereof, expressed or implied. Except as indicated in the immediately preceding sentence and in Paragraph 4.2C, CONTRACTOR shall have full responsibility with respect to subsurface conditions at the site.
- B. Existing Structures: Reference, when applicable, is made to the supplementary conditions for identifications of those Drawings of physical conditions in or relating to existing surface and subsurface structures (except underground facilities referred to in Article 4.3) which are at or contiguous to the site that have been utilized in preparing the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such Drawings, but not upon the completeness thereof for CONTRACTOR's purposes. Except as indicated in the immediately preceding sentence and in Paragraph 4.2C, CONTRACTOR shall have full responsibility with respect to physical conditions in or relating to such structures.
- C. Differing Site Conditions: If CONTRACTOR believes that any technical data on which CONTRACTOR is entitled to rely as provided in Paragraphs 4.2A and 4.2B is inaccurate, or any physical condition uncovered or revealed at the site differs materially from that indicated in the Contract Documents, or unknown physical conditions exist at the site which are of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the construction contract, CONTRACTOR shall immediately notify ENGINEER in writing before performing any work in connection therewith. Failure by the CONTRACTOR to give notice about the inaccuracy or difference, and the performance of any work in connection with said differing site conditions (except in an emergency as permitted by Article 6.13), shall bar the

CONTRACTOR from making any claim for additional compensation in connection therewith.

1. ENGINEER's Review: ENGINEER will review the alleged or claimed differing conditions and determine if it is necessary to obtain additional explorations or tests with respect thereto.
 2. Possible Document Change: If the ENGINEER concludes that there is a material error in the Contract Documents, or that a change in the Contract Documents is required, a Change Order will be issued as provided in Part 10 to reflect and document the consequences of the inaccuracy or difference.
 3. Possible Price and Time Adjustments: For such possible document change an increase or decrease in the contract price or an extension or shortening of the Contract Time, or any combination thereof, may be allowable to the extent the ENGINEER determines that they are attributable to any such inaccuracy. If ENGINEER and CONTRACTOR are unable to agree as to the amount or length thereof, a claim may be made therefore as provided in Parts 11 and 12.
- D. Hazardous Substances: Neither OWNER nor ENGINEER are aware of any hazardous substances which may be encountered in performance of the work except as may be specifically disclosed elsewhere in the Contract Documents. Neither OWNER nor ENGINEER have specifically inspected the site to determine any such presence except as disclosed in the Contract Documents.

4.3 PHYSICAL CONDITIONS – UNDERGROUND FACILITIES

- A. Shown or Indicated: The information 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 or by others. OWNER shall not be responsible for the accuracy or completeness of any such information.
1. One-call Center: The CONTRACTOR shall have full responsibility for reviewing and verifying all such information, with the one-call center (Blue Stake location center) or other utility coordination service a minimum of 2 working days prior to any excavation to locate all underground facilities shown or indicated in the Contract Documents. The CONTRACTOR shall have full responsibility for any damages to underground facilities or costs resulting from the damage to such facilities, in those instances where the CONTRACTOR did not dependently locate and verify the location of such facilities.
 2. Tolerances: The information presented is considered accurate to within 3 feet vertical and 4 feet horizontal on each side of the utility location shown on the Drawings. Should a utility so shown not be within said tolerances, said utility shall be handled as outlined in Paragraph 4.3B below.
 3. Coordination: The CONTRACTOR shall coordinate the work with the OWNERS of such underground facilities during construction and shall be responsible for the safety and protection thereof as provided in Article 6.12.
 4. Costs: If work is performed within the above referenced tolerances, the cost of all of the above including repair of any damages therein resulting from performance of the work, will be considered as having been included in the contract price and no additional compensation will be allowed therefore.

- B. Not Shown or Indicated: If an underground facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents and which CONTRACTOR could not reasonably have been expected to be aware of, CONTRACTOR shall, promptly after becoming aware thereof and before performing any work affected thereby (except in an emergency as permitted by Article 6.13), identify the OWNER of such underground facility and give written notice thereof to that OWNER and to ENGINEER.
1. ENGINEER to Modify Contract Documents: ENGINEER will promptly review the underground facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the underground facility, and the Contract Documents will be amended or supplemented to the extent necessary.
 2. Safety and Precaution: During such time, CONTRACTOR shall be responsible for the safety and protection of such underground facility as provided in Article 6.12.
 3. Contract Price or Contract Time Adjustment: CONTRACTOR may be allowed an increase in the contract price or an extension of the Contract Time, or both, to the extent that they are attributable to the existence of any underground facility that was not shown or indicated in the Contract Documents, or that was not identified by the CONTRACTOR where such identification could have been made through a reasonably prudent investigation by the CONTRACTOR.
 4. Claims: If the parties are unable to agree as to the contract price or Contract Time adjustments, CONTRACTOR may make a claim therefore as provided in Parts 11 and 12.

4.4 REFERENCE POINTS AND MONUMENTS

- A. OWNER shall provide land 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 shall make no changes or relocations without the prior written permission of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point 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 by professionally qualified personnel.
- B. CONTRACTOR shall not disturb any survey monuments found on the line of the improvements until ordered by the ENGINEER. No survey monument shall be disturbed or moved until ENGINEER has been notified and ENGINEER has referenced the survey monument for resetting.

4.5 ASBESTOS, PCBs, PETROLEUM, HAZARDOUS WASTE FOR RADIOACTIVE MATERIAL

- A. Neither OWNER nor ENGINEER are aware of any hazardous substances which may be encountered in performance of the work except as may be specifically disclosed elsewhere in the Contract Documents. Neither OWNER nor ENGINEER have specifically inspected the site to determine any such presence except as disclosed in

the Contract Documents. The provisions of Articles 4.2 and 4.3 shall not apply to asbestos, PCBs, petroleum, hazardous waste or radioactive material uncovered or revealed at the site.

PART 5 BONDS AND INSURANCE

5.1 PERFORMANCE, PAYMENT AND OTHER BONDS

- A. Prior to OWNER executing the Agreement, CONTRACTOR shall file with the OWNER a good and sufficient Performance Bond and a Payment Bond, each in the sum of not less than 100 percent of the contract price.*
- B. The bonds shall be executed by the CONTRACTOR and secured by a company duly and regularly authorized to do a general surety business in the State of Utah and named in the current list of companies holding certificates of authority as acceptable sureties on federal bonds and as acceptable reinsuring companies as published in current Circular 570 (amended) by the Audit Staff bureau of Accounts, U.S. Treasury Department, with an underwriting limitation equal to or greater than the contract price which the bond guarantees or with a current "A-" rating or better in A.M. Best Co., Inc.'s Best Insurance Reports, Property and Casualty Edition.*
- C. Said bonds shall guarantee the faithful performance of the construction contract by the CONTRACTOR and payment of labor and materials. They shall inure by their terms to the benefit of the OWNER. Neither this nor any other provision requiring a Performance Bond shall be construed to create any rights in any third party claimant as against the OWNER for performance of the work under the construction contract.*
- D. If the surety on any bond furnished by CONTRACTOR is subject to any proceeding under the Bankruptcy Code (Title 11, United States Code) or becomes insolvent or its right to do business is terminated in the State of Utah or it ceases to meet the requirements of this Article, CONTRACTOR shall, within 15 days thereafter, substitute another bond and surety, both of which must be acceptable to OWNER.*

5.2 INSURANCE

- A. In General: All policies of insurance provided shall be issued by insurance companies qualified to do business in the State of Utah and listed on the U.S. Treasury Department's current Department of Treasury Fiscal Services List 570, or having a general policy holder's rating of not less than "A-" in the most current available A.M. Best Co., Inc.'s Best's Insurance Report.*
- B. Insurance Requirements: CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONTRACTOR, its agents, representatives, employees or subcontractors. The cost of such insurance shall be included in CONTRACTOR's Bid. The amount of insurance shall not be less than:*
- 1. Commercial General Liability: \$1,000,000 combined single limit per occurrence and \$3,000,000 general aggregate for bodily injury, personal injury and property damage. Policy to include coverage for premises and operations, contractual liability, personal injury liability, products/completed operations liability, broad-*

- form property damage (if applicable) and independent CONTRACTORS' liability (if applicable) written on an occurrence form.*
2. *Business Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage for owned, non-owned and hired autos.*
 3. *Workers' Compensation and Employers' Liability: Workers' compensation limits as required by the labor code of the State of Utah and employers' liability with limits of \$1,000,000 per accident.*
- C. *Each insurance policy required by this Agreement shall contain the following clauses:*
1. *"This insurance shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty days prior written notice by certified mail, return receipt requested, has been given to the City."*
 2. *"It is agreed that any insurance or self-insurance maintained by Ogden City, its elected and appointed officials, employees, agents and volunteers shall be excess of CONTRACTOR's insurance and shall not contribute with insurance provided by this policy."*
- D. *Each insurance policy required by this Agreement, excepting policies for Workers' Compensation, shall contain the following clause:*
1. *"Ogden City, its elected and appointed officials, employees, volunteers and agents are to be named as additional insureds as respect to operations and activities of, or on behalf of, the named insured as performed under Agreement with the City."*
- E. *Insurance is to be placed with insurers acceptable to and approved by the City. CONTRACTOR's insurer must be authorized to do business in Utah at the time the contract is executed and throughout the time period the contract is maintained, unless otherwise agreed to in writing by the City. Failure to maintain or renew coverage or to provide evidence of renewal will be treated by City as a material breach of contract.*
- F. *The City shall be furnished with original certificates of insurance and endorsements effecting coverage required within, signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received by the City before work commences.*
- G. *The City reserves the right to require complete, certified copies of all required insurance policies at any time.*
- H. *Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either:*
1. *the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected and appointed officials, employees, agents and volunteers;*
 2. *or CONTRACTOR shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.*
- I. *CONTRACTOR shall include all subcontractors and insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.*

- J. *Nothing contained herein shall be construed as limiting in any way the extent to which CONTRACTOR may be held responsible for payments of damages to persons or property resulting from CONTRACTOR's or its subcontractor's performance of the work covered under this Agreement.*
- K. *Builder's Risk: CONTRACTOR agrees to and assumes the risk of loss for any damage or loss to the work and project by any means or occurrence until substantial completion. If this contract includes construction of an above ground structure, CONTRACTOR further agrees to obtain builder's risk or course of construction insurance in the total amount of the contract price.*

PART 6 CONTRACTOR'S RESPONSIBILITIES

6.1 CONTROL OF THE WORK

- A. Means, Methods, Techniques, Sequences, Procedures of Construction:
CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. CONTRACTOR shall be responsible to ensure that the completed work complies with the Contract Documents. CONTRACTOR shall supervise, direct and control the work competently and efficiently. CONTRACTOR shall devote such attention thereto and applying such skill and expertise as necessary to perform the work in accordance with the Contract Documents.
- B. Resident Superintendent: CONTRACTOR shall designate in writing and keep on site at all times during the progress of the work a competent resident superintendent. The superintendent shall not be replaced without written notice to ENGINEER except under extraordinary circumstances. The superintendent shall have authority to act on behalf of CONTRACTOR.
- C. Communications: All communications given to the resident superintendent by ENGINEER shall be as binding as if given to CONTRACTOR. If CONTRACTOR's resident superintendent is not present on site or on any part of the work, ENGINEER may give communications to an employee of the CONTRACTOR or to the CONTRACTOR's subcontractor or suppliers who may have charge of the particular portion of the work in reference to which the communications are given. Without being contrary to the provisions of Paragraphs 9.9C or 9.9D, such communications shall be considered given by the ENGINEER to the CONTRACTOR when confirmed in writing and delivered to the CONTRACTOR's resident superintendent.
- D. CONTRACTOR not Agent of OWNER: ENGINEER's right to enforce provisions of the Contract Documents shall not make the CONTRACTOR, nor the CONTRACTOR's agents, employees, subcontractors, or suppliers, agents of the OWNER. The liability of the CONTRACTOR for all damages to persons or to public or private property, arising from CONTRACTOR's execution of the work, shall not be diminished because of ENGINEER's enforcement of the Contract Documents.

6.2 LABOR, MATERIALS AND EQUIPMENT

- A. Personnel and Discipline: CONTRACTOR shall provide competent, 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. If any subcontractor or employee or the CONTRACTOR shall appear to ENGINEER to be incompetent or to act in a disorderly or disobedient manner, the person shall be immediately removed from the project upon the request of the ENGINEER, and such person shall not be employed again on the work.
- B. Regular working hours: Except in connection with the safety or protection of persons or the work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all work at the site shall be performed during regular working hours.
- C. Overtime: If CONTRACTOR permits overtime work *beyond the standard hours of operation for Ogden City Engineering employees or permits the performance of work on Saturday, Sunday or any legal holiday* CONTRACTOR shall do so at no increase to the contract price and shall give prior written notice to ENGINEER. *CONTRACTOR shall be responsible for all additional costs associated with overtime incurred by OWNER, ENGINEER or their representatives or assistants. Said costs may be considered as deductions from the amounts payable to the CONTRACTOR at the discretion of the ENGINEER.*
- D. Temporary Facilities: Unless otherwise specified in the Contract Document (e.g. OWNER-supplied materials, etc.), CONTRACTOR shall furnish and assume full responsibility for all 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 furnishing, performance, testing, start-up, completion or suspension of the work.
- E. Materials and Equipment: All materials and equipment shall be applied installed, connected, erected, used, cleaned and conditioned in accordance with instructions of the applicable supplier, except as otherwise provided in the Contract Documents; but no provision of any such instructions shall be effective to assign to OWNER, ENGINEER or any of OWNER's representatives, consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.9C or 9.9D. All warranties and guarantees specifically called for in the specifications shall expressly run to the benefit of the OWNER.
1. Adequate, Safe and Suitable Equipment: The CONTRACTOR shall provide adequate, safe and suitable equipment to meet the work requirements, and when ordered by the ENGINEER, shall remove unsuitable equipment from the work.
 2. Operating Construction Equipment on Site: No construction equipment or machinery shall be operated upon paved streets, sidewalks, landscaped areas or prepared roadway shoulders which may be injurious to said areas.
 3. Quality, New: All materials and equipment to be installed in the work shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment.
 4. Certificate of Compliance: The ENGINEER may permit the use of certain materials or assembly prior to sampling and testing if accompanied with a certificate of compliance stating that materials involved comply in all respects

with the requirements of the Contract Documents subject to the following conditions:

- a. the form of a certificate of compliance and its disposition shall be as directed by the ENGINEER;
- b. the certificate shall be signed by the manufacturer of the materials or the manufacturer of the assembled material;
- c. the certificate must be furnished with each material or assembly of material delivered to the work and the material or assembly of material so certified must be clearly identified in the certificate;
- d. all materials used on the basis of a certificate of compliance may be contested at any time;
- e. the fact that material is used on the basis of a certificate of compliance shall not relieve CONTRACTOR from the responsibility of incorporating material in the work which conforms to requirements of the Contract Documents and any such material not conforming to such compliance, whether or not in place, shall be removed and replaced at no additional cost to the OWNER; and
- f. OWNER reserves the right to refuse to permit the use of material on the basis of a certificate of compliance.

6.3 ADJUSTING PROGRESS SCHEDULE

- A. Changes: CONTRACTOR shall submit to ENGINEER adjustments in the progress schedule which reflect the impact thereon of changes to the work.
 1. Proposed adjustments in the progress schedule that will not change the Contract Time or milestones will conform generally to the progress schedule then in effect and additionally will comply with any provisions of Paragraph 2.5. Such submittal must be accepted by ENGINEER before the adjusted schedule becomes effective.
 2. Proposed adjustments in the progress schedule that will change the Contract Time or milestones shall be submitted in accordance with the requirements of Article 12.1. Such adjustments may only be made by a Change Order in accordance with Article 3.3.
- B. Float Time: Any float time used in the progress schedule shall not be owned solely by OWNER or CONTRACTOR.
 1. Float time shall be allocated and used in the best interests of the work.
 2. CONTRACTOR's schedules shall reflect CONTRACTOR's use of float time and specify the reason for CONTRACTOR's use.
 3. The progress schedule shall reflect OWNER's use of float time.
 4. OWNER shall notify CONTRACTOR or OWNER's claim to use any float time and shall specify the reason for such use.

6.4 SUBSTITUTES OR "OR EQUAL" ITEMS

- A. Proprietary Item or Particular Supplier: Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, such naming is intended to establish the type, function, and quality required. Unless the specification or description contains or is followed by words reading that no substitution is permitted, material and

equipment or other suppliers may be accepted by ENGINEER. Review and acceptance of the “or equal” substitute item may, in ENGINEER’s sole discretion, be accomplished without compliance with some or all of the following requirements for acceptance of proposed substitute items:

1. requests for review of substitute items of material and equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR;
2. CONTRACTOR shall first make written application to ENGINEER for acceptance of proposed substitute item of material or equipment;
3. CONTRACTOR shall certify that the proposed substitute will function and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified;
4. the application shall state that the evaluation and acceptance of the proposed substitute will not prejudice CONTRACTOR’s achievement of substantial completion on time, whether or not acceptance of the substitute for use in the work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the work is subject to payment of any license fee or royalty;
5. all variations of the proposed substitute from that specified will be identified in the application and the nature and extent of available maintenance, repair and replacement service will be indicated;
6. the application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of separate CONTRACTORS affected by the resulting change, all of which will be considered by ENGINEER in evaluating the proposed substitute;
7. all data to be provided by CONTRACTOR in support of any substitute item or proposed substitute item will be at CONTRACTOR’s expense; and
8. ENGINEER may require CONTRACTOR to furnish at CONTRACTOR’s expense additional data which ENGINEER determines to be necessary to evaluate the proposed substitute item.

B. Substitute Construction Methods or Procedures: If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to ENGINEER, if CONTRACTOR submits sufficient information to allow ENGINEER, in ENGINEER’s sole discretion, to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by ENGINEER will be similar to that provided in Paragraph 6.4A as applied by ENGINEER and as supplemented in Section 01 25 00 of the General Requirements in the Standard Specifications.

C. Time Require for Review of Substitute: Proposed substitutes shall be made in ample time to permit review and written approval without delaying the work. ENGINEER will be the sole judge of acceptability, and no substitute will be ordered, installed or

- utilized without ENGINEER's prior written acceptance which will be evidenced by either a Change Order or an approved shop drawing.
- D. Special Performance Guarantee: OWNER may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any substitute.
 - E. OWNER's Costs: CONTRACTOR shall reimburse OWNER for all charges or expenses incurred by OWNER regarding any request for substitution per this part whether or not such request is approved.
 - F. No Extra Time for Review: CONTRACTOR's request to use substitute materials and equipment or methods per this Article and ENGINEER's review of such request shall not extend the Contract Time.

6.5 SUBCONTRACTORS, SUPPLIERS AND OTHERS

- A. General: CONTRACTOR shall not employ any subcontractor, supplier or other person or organization (including those acceptable to OWNER as indicated in Paragraph 6.5B), whether initially or as a substitute, against whom OWNER may have reasonable objection. CONTRACTOR shall not be required to employ any subcontractor, supplier or other person or organization to furnish or perform any of the work against whom CONTRACTOR has reasonable objection.
- B. Adjustment for Substitution of Subcontractor, Suppliers and Other Person: If any subcontractor, supplier or other person or organization, which was identified by CONTRACTOR prior to the effective date of the construction contract, is to be replaced by the CONTRACTOR, or on request of the OWNER on the basis of reasonable investigation, CONTRACTOR shall propose in writing to the OWNER an acceptable subcontractor, supplier or other person or organization substitute. If OWNER's request is based upon defective work or CONTRACTOR's failure to comply with the Contract Documents, the contract price shall remain unchanged, otherwise, the contract price will be adjusted by the difference in the cost occasioned by such replacement and an appropriate Change Order signed. No acceptance by OWNER of any subcontractor, supplier or other person or organization shall constitute a waiver of any right of OWNER or ENGINEER to reject defective work or any other right under the Contract Documents or under law or regulations.
- C. OWNER – CONTRACTOR – Subcontractor Relationships: CONTRACTOR shall be fully responsible to OWNER for all acts and omissions of subcontractors, suppliers and other persons and organizations performing or furnishing any of the work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for acts and omissions of CONTRACTOR's own agent or employee. Nothing in the Contract Documents shall create any contractual relationship between OWNER and any such subcontractor, supplier or other person or organization, nor shall it create any obligation on the part of OWNER to pay or to see to the payment of any moneys due any such subcontractor, supplier or other person or organization except as may otherwise be required by laws and regulations.
- D. Responsibility for Subcontractor Licensing: Proper licensing under state or local law and regulations to perform the work of a subcontract shall be the responsibility of the CONTRACTOR and the subcontractor or subcontractors involved. OWNER does not assume any responsibility for the terms and conditions of the contract between

CONTRACTOR and subcontractor. OWNER's requirement that CONTRACTOR submit a subcontractor and supplier report shall not be construed as an assumption by OWNER of any responsibility for said licensing requirements or terms and conditions of subcontracts.

- E. Contract Documents Do Not Subdivide the Work: 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.
- F. Subcontractor Agreements: All work performed for CONTRACTOR by a subcontractor will be pursuant to an appropriate written agreement between CONTRACTOR and the subcontractor which specifically binds the subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of OWNER. If requested by OWNER, CONTRACTOR shall provide copies of such agreements to OWNER.
- G. Subcontractor or Supplier Default: When any part of the work has been subcontracted and is not being prosecuted in a manner satisfactory to ENGINEER, CONTRACTOR shall cause such failure to be corrected as required by the Construction Contract. In such a case, no additional compensation will be paid to CONTRACTOR for completing the part of the work.
- H. Conflict of Interest, Subcontractors: No agency or company which is or has been under contract to the OWNER to provide design, design reviews, soil testing, material testing, surveying and any other such functions associated with the design phase of the work shall be used as a subcontractor by the CONTRACTOR.

6.6 PATENT FEES AND ROYALTIES

- A. In General: 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 the OWNER is 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.

6.7 PERMITS

- A. In General: Unless otherwise provided in the supplementary conditions, CONTRACTOR shall obtain and pay for all permits, licenses and inspections. The CONTRACTOR shall, without additional cost to the OWNER, give all notices and pay all necessary fees (including plan check fees) in connection with the performance of the construction contract. CONTRACTOR shall furnish a copy of permits and licenses (except permanent easements) to the ENGINEER prior to CONTRACTOR commencing work thereunder.
- B. Governmental Charges and Inspection Fees: CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the work, which are applicable at the time of opening Bids, or if there are no Bids, on the effective date of the construction contract.

- C. Utility Connection Fees and Plant Investment Fees: CONTRACTOR shall pay all charges of utility OWNERS for connections to the work, and OWNER shall pay all charges of such utility OWNERS for capital costs related thereto such as plant investment fees.
- D. Temporary Utilities: CONTRACTOR shall make all arrangements for electricity, sewer, gas and telephone from the appropriate utility companies. All utility lines will be on the surface of the ground, underground or placed on temporary poles and shall conform to the appropriate load requirements. No pole shall be erected without approval of the ENGINEER. Relocation of temporary utilities shall be paid for by the CONTRACTOR at no additional cost to the OWNER.
- E. Uniform Building Code: CONTRACTOR shall arrange for all necessary inspections required by the appropriate governmental authority(ies). Before final payment is issued, CONTRACTOR shall deliver to the ENGINEER copies of all certificates of inspection.
- F. Waterworks Connections: If CONTRACTOR desires to use OWNER's water, it shall first contact ENGINEER and make arrangements therefore. CONTRACTOR shall pay all necessary charges, and usage costs.
- G. Utah Pollutant Discharge Elimination System (UPDES) Permit: An UPDES permit shall be secured by CONTRACTOR at CONTRACTOR's sole expense, if the construction site requires such a permit under Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated 1953, as amended. The agency responsible for verifying permit requirement is the State of Utah Department of Environmental Quality, Division of Water Quality.
- H. Ogden City Permits: *In addition to any other permits required for the work, the CONTRACTOR shall obtain permits from Ogden City Corporation for work on the project.*
1. OWNER-Paid Permits: *CONTRACTOR shall be responsible for submitting plans, scheduling inspections and paying all costs incidental to such actions as required for any building, plumbing, mechanical, electrical, water, sewer or drainage permit required by Ogden City Corporation. Except for construction water meter fees, the fees for these permits shall be paid by the OWNER and shall not be included in CONTRACTOR's Bid. The following listed permit is not exclusive and does not relieve CONTRACTOR of the responsibility of obtaining all permits.*
 - a. Permit for Work in the Public Way: *From Ogden City's Engineering division, ENGINEER's One Stop counter, 2549 Washington Boulevard, Suite 240, Ogden City, Utah, 84401. Phone (801) 629-8986.*
 2. CONTRACTOR-Paid Permits: *The fees for permits not paid for by the OWNER shall be included in the CONTRACTOR's Bid. The following list is not exclusive and does not relieve CONTRACTOR of the responsibility of obtaining all permits:*
 - a. Construction Water: *If water for construction is required to be taken from fire hydrants or from a new water service, CONTRACTOR shall be solely responsible for obtaining and paying for necessary permits and water usage to Ogden City. Construction water permits to connect to a new water service can be obtained, along with a description of backflow requirements at Ogden City One Stop Counter, 2549 Washington*

Boulevard, Ogden City, Utah 84401. (801) 629-8985. Construction water obtained from a fire hydrant must be metered from an Ogden City hydrant meter. Meters can be rented with a deposit from Ogden City Utilities 133 W. 29th St. Ogden City, Utah 84401. (801) 629-8321. Connections made without proper backflow prevention or hydrants connected without an Ogden City hydrant meter may be subject to penalties or fines.

- b. *Building, Electrical and Plumbing Permits: From Ogden City Building Inspections office, 2549 Washington Boulevard, Suite 240, Ogden, Utah, 84401. Phone (801) 629-8985.*
- c. *Permit and Fees for Tap of Water Mains: From Ogden City One Stop Counter, 2549 Washington Boulevard, Suite 240, Ogden, Utah 84406. Phone (801) 629-8986. Ogden City Water Utility, 175 West 29th Street, Ogden, Utah. Phone (801) 629-8321.*
- d. *Permit and Fees for Tap of Sewer Mains: From Ogden City One Stop Counter, 2549 Washington Boulevard, Suite 240, Ogden, Utah, 84401 Phone (801) 629-8986.*
- e. *General Permit for Storm Water Discharge:*
 - 1. *Between 5,000 square feet and 0.99 acres:* From Ogden City One Stop Counter, 2549 Washington Boulevard, Suite 240, Ogden, Utah 84401, (801) 629-8986
 - 2. *1 acre or more:* From the State of Utah, Department of Environmental Quality, Division of Water Quality. Fee varies; contact the State for a quote.
- f. *Ogden City Business License: In addition to any other licenses required for the work, the CONTRACTOR shall obtain a business license from Ogden City Corporation for work on the project.*
 - 1. *A general CONTRACTOR who performs labor will be required to show evidence of a current Ogden City Business License, if he/she has a business in Ogden City.*
 - 2. *Only those major subcontractors, i.e. mechanical, electrical, and plumbing that are required to secure permits from the Ogden City Inspection Division will be required to secure an Ogden City Business License, if they have a business in Ogden City.*
- g. *Other Permits: All other permit fees required by Ogden City, the State of Utah, the United States of America, and any of their agencies, or by any private utility companies, shall be paid for and obtained by the CONTRACTOR and included in the CONTRACTOR's Bid. The following list is not exclusive and does not relieve CONTRACTOR of the responsibility of obtaining all permits:*
 - 1. *UDOT Digging Permit: ; State of Utah, District 1. Phone (801)620 1604/1639.*
 - 2. *Private Property OWNER Permit: Written permission to use private water.*
 - 3. *Private Property OWNER Permit: Written permission to store product, equipment, materials and supplies outside of work site boundaries.*

4. *General Permit for Storm Water Discharge: From the State of Utah, Department of Environmental Quality, Division of Water Quality. Fee varies. Contact the State for a quote.*
5. *Flood Control Permit: Weber County, Department of Public Works, Engineering, Ogden City, Utah.*

6.8 LAWS AND REGULATIONS

- A. CONTRACTOR shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the work. Except where otherwise expressly required by applicable laws and regulations, OWNER shall not be responsible for monitoring CONTRACTOR's compliance with any laws and regulations nor the compliance of any of CONTRACTOR's agents, employees, subcontractors or suppliers.
- B. If CONTRACTOR observes that the specifications or Drawings are at variance with any laws or regulations, CONTRACTOR shall give ENGINEER prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated in Paragraph 3.3A. If CONTRACTOR performs any work knowing or having reason to know that it is contrary to such laws or regulations, and without such notice to ENGINEER, CONTRACTOR shall bear all costs arising there from.

6.9 TAXES

- A. Except for OWNER-supplied material, CONTRACTOR shall pay all sales, consumer, use and other similar taxes which are required to be paid during the performance of the work in accordance with applicable laws and regulations.

6.10 USE OF PREMISES

- A. Use of Premises, Damage: CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to the project site and land and areas identified in and permitted by the Contract Documents and other land and areas permitted by laws and regulations, rights-of-way, permits and easements, and shall not unreasonably encumber the premises 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 such land or areas contiguous thereto, resulting from the performance of the work.
- B. Clean Work Site: During the progress of the work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the work. At the completion of each portion of the work CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by OWNER.
- C. Restoration of Property, Clean Neighborhood, Costs: CONTRACTOR shall restore to original condition all property not designated for alteration by the Contract Documents. Failure by CONTRACTOR to repair damage or disturbance or to maintain the job site, adjacent areas and haul routes in a clean and neat condition in

accordance with Contract Documents will result in OWNER, after reasonable notice to CONTRACTOR, providing the equipment and labor necessary to clean up the said areas and charging the costs thereof to CONTRACTOR. "Cleanliness" requires removal of rocks, dirt and spillage.

- D. Load Safety: CONTRACTOR shall not load or permit any part of any structure at the work site to be loaded in any manner that will endanger the structure. CONTRACTOR shall not subject any part of the work or adjacent property to stresses or pressures that will endanger either of them.
- E. CONTRACTOR to Indemnify; Save OWNER Harmless: CONTRACTOR shall assume full responsibility for any damage to:
 - 1. the project site, land and areas identified in and permitted by the Contract Documents and laws and regulations, rights-of-way, permits easements; and
 - 2. other property which may be damaged by CONTRACTOR, subcontractors or suppliers during the performance of the work such as walls, utilities, streets, ways, sidewalks, curbs gutters and property of third part including other governmental agencies).

Should any claims be made against OWNER by any owner or occupant of any land or area damaged by CONTRACTOR, subcontractors or suppliers during performance of the work, CONTRACTOR shall promptly attempt to resolve the claim. CONTRACTOR shall indemnify and save OWNER harmless from and against all claims, damages, losses and expenses (including, but not limited to fees of ENGINEERs, architects, attorneys and other professionals and court costs arising directly, indirectly or consequentially out of an claim brought by any such other party against OWNER arising out of CONTRACTOR's performance of the work.

6.11 RECORD DOCUMENTS

- A. CONTRACTOR shall maintain in a safe place at the work site one record copy of all Contract Documents and written interpretations and clarifications (issued pursuant to Article 9.4) in good order and annotated to show all changes made during construction. These record documents, together with all acceptable samples and a counterpart of all reviewed shop Drawings, shall be available to ENGINEER for reference. Upon completion of the work, these record documents, samples and shop Drawings shall be delivered to ENGINEER for OWNER.
- B. CONTRACTOR shall maintain thorough records of all transactions and shall give the OWNER and other agencies required by law or regulation, access to and the right to examine all records, books, papers, or documents to all operations funded in whole or in part under the Construction Contract for a period of three (3) years following work completion.

6.12 SAFETY AND PROTECTION

- A. In General: CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work.
- B. Protection Against Damage, Injury, Loss:
 - 1. CONTRACTOR's Responsibility: CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

- a. all employees on the work and other persons and organizations who may be affected thereby;
 - b. all work and materials and equipment to be incorporated therein, whether in storage on or off the site except as otherwise specifically directed by OWNER, as e.g. OWNER-supplied materials, builder's risk insurance, etc.; and
 - c. other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, curbs, gutters, structures, utilities and underground facilities not designated for removal, relocation or replacement in the course of construction.
2. Risk: Except as provided above, until substantial completion or as indicated in other Contract Documents, CONTRACTOR shall have the charge and care of the work and materials and shall bear the risk of damage, injury or loss to any part thereof by any acts of God or the elements or from any other cause. Except as provided above, OWNER, its officers, employees and agents and the ENGINEER shall not be answerable nor accountable in any manner for any damage or loss that may occur to the work or any part thereof; for any material or equipment used in performing the work; for property damage, personal injury, or death; or for damage to adjoining property from any cause whatsoever during the progress of the work or at any time before substantial completion.
- C. Repairs by CONTRACTOR: All damage, injury or loss to any property referred to in Paragraph 6.12B.1.b. or 6.12B.1.c. above, caused directly or indirectly, in whole or in part, by CONTRACTOR, any subcontractor, supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR at no additional cost to the OWNER.
- D. Safety, Warnings: CONTRACTOR shall comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. CONTRACTOR shall erect and maintain, as required by existing conditions and performance of the work, reasonable safeguards for safety, and protection, including posting danger signs and other warning against hazards, and promulgating and giving notice of safety regulations.
- E. Notification: CONTRACTOR shall notify OWNERS of adjacent property, underground facilities and separate utilities when prosecution of the work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property.
- F. Temporary Repairs by OWNER: When not performed by CONTRACTOR within the time requested by ENGINEER, OWNER may make or cause to be made such temporary repairs as are necessary to restore to service any damaged facility. The cost of such repairs shall be borne by the CONTRACTOR and, if paid by OWNER, may be deducted from any monies due or to become due the CONTRACTOR.
- G. Safety Representative: CONTRACTOR shall designate a responsible representative at the site whose duty shall be the prevention of accidents. This person shall be CONTRACTOR's resident superintendent unless designated otherwise in writing by CONTRACTOR.

- H. Hazard Communications Standards (Employee Right to Know): During performance of the work, CONTRACTOR shall be subject to federal regulations outlined in 29CFR 1910.1200 entitled Hazard Communication Standard. CONTRACTOR shall be solely responsible for any and all violations of the hazard communication standard resulting from the negligent or intentional acts or omission or commission of officers, employees, representatives, agents, servant, subcontractors, suppliers, successors and assigns of CONTRACTOR. CONTRACTOR and subcontractor personnel required under the terms of the Contract Documents to work with or in close proximity to hazardous materials and hazardous wastes shall have completed and be current with the personal training required by Occupational Health and Safety Administration (OSHA) regulations as outlined in 29CFR 1910.1200. CONTRACTOR and subcontractor personnel required under the terms of the Contract Documents to work with hazardous materials or hazardous wastes, or perform services in an area identified as a hazardous material or hazardous waste remediation site, shall have completed and be current with the OSHA Hazardous Waste Operations and Emergency Response (HAZWOPER) training program as outlined in 29CFR 1910.120.
- I. Encountering Hazardous Substances: In the event the CONTRACTOR encounters on the site substance reasonably believed to be asbestos or polychlorinated biphenyl (PCB) or any other hazardous waste or substance which may endanger the health of those persons performing the work or being on the site, which has not been rendered harmless, the CONTRACTOR shall immediately stop work in the area affected and immediately report the condition to the ENGINEER and OWNER, and confirm the report immediately in writing. The OWNER shall retain a special consultant qualified to investigate, evaluate and mitigate any potentially hazardous substances. The work in the affected area shall be resumed in the absence of asbestos, polychlorinated biphenyl (PCB) or said hazardous waste or substance, or when it has been rendered harmless according to the federal and state health standards. Except to the extent provided otherwise in the Contract Documents, the CONTRACTOR shall not be required to perform, without consent, any work relating to asbestos, polychlorinated biphenyl (PCB) or any other hazardous waste substance. In the event of OWNER's delay in investigating, evaluating and mitigating any potentially hazardous substances, if CONTRACTOR believes that any delay entitles CONTRACTOR to an increase in the contract price or an extension of the Contract Time, CONTRACTOR may make a claim therefore as provided in Parts 11 and 12 hereof.
- J. Using Hazardous Substances: When use or storage of explosives or other hazardous substances or construction equipment or unusual methods are necessary for execution of the work, the CONTRACTOR shall notify OWNER in writing of where and when such will be used and shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.
- K. Cost to Protect or Repair in Contract Price: The full cost of furnishing all labor, materials, tools equipment and incidentals, and for doing all the work involved in protecting or repairing property and for insuring against risk of loss or damage shall be deemed included in the Contract Price and no additional compensation shall be allowed therefore.

6.13 EMERGENCIES

- A. CONTRACTOR to Act: In emergencies affecting the safety or protection of persons, the work or property at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from ENGINEER, shall prevent threatened damage, injury or loss.
- B. Written Notice: 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 by responding to such an emergency.
- C. Change Order: If ENGINEER determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order will be issued to document the consequences of such actions.

6.14 SHOP DRAWINGS AND SAMPLES

- A. Not Contract Document: Shop Drawings, product data, samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate, for those portions of the work for which submittals are required, the way the CONTRACTOR proposes to conform to the information given and the design concept expressed by the Contract Documents.
- B. Shop Drawings: CONTRACTOR shall submit shop drawing to ENGINEER for review and acceptance in accordance with the accepted schedule for submissions (see Paragraph 2.7A), or for other appropriate action if so indicated in the supplementary conditions.
 - 1. Before submission, CONTRACTOR shall check and verify all field measurements and comply with applicable procedures specified in the General Requirements.
 - 2. All submissions will be identified as ENGINEER may require, and will bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to CONTRACTOR's review of the submission, including those of CONTRACTOR's subcontractors.
 - 3. The data shown on the shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable ENGINEER to review the information as required.
- C. Samples: CONTRACTOR shall also submit to ENGINEER for review with such promptness as to cause no delay in work, all samples required by the Contract Documents.
 - 1. All samples, whether supplied by CONTRACTOR, or CONTRACTOR's subcontractors, or CONTRACTOR's suppliers shall be checked by the CONTRACTOR. Such samples shall be accompanied by a specific written annotation indicating that CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to CONTRACTOR's review of the sample.
 - 2. All submissions will be identified clearly as to material and supplier.
 - 3. Pertinent data such as catalog numbers and the use for which intended shall be indicated.

- D. Verifications: Before submission of each shop drawing or sample, CONTRACTOR shall have determined and verified the following:
1. all field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar information with respect thereto;
 2. all materials with respect to intended use, fabrication, shipping, handling, storage, assembly and installation pertaining to the performance of the work; and
 3. all information relative to CONTRACTOR's sole responsibilities in respect of means, methods, techniques, sequences and procedures of construction and safety precautions and programs incident thereto.
- E. Notice of Variance: At the time of each submission, CONTRACTOR shall give ENGINEER specific written notice of each variation that the shop Drawings or samples may have from the requirements of the Contract Documents. In addition, CONTRACTOR shall cause a specific notation to be made on each shop drawing submitted to ENGINEER for review and approval of each such variation. CONTRACTOR shall direct specific attention in writing to CONTRACTOR's or other's revisions other than the corrections called for by ENGINEER on previous submittals.
- F. Review by ENGINEER: ENGINEER will review with reasonable promptness shop Drawings and samples. ENGINEER's review will be only for conformance with the design concept of the project and for compliance with the information given in the Contract Documents. ENGINEER's review shall not extend to means, methods, techniques, sequences or procedures or construction (except where a specific means, method, technique, sequence or procedure or construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review of a separate item as such will not indicate approval of the assembly in which the item functions. 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.
- G. Accuracy of Dimensions, Errors and Omissions: ENGINEER's review of shop Drawings or samples shall not relieve CONTRACTOR from responsibility for accuracy of dimensions and details or any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of submission, as required by Paragraph 6.14E, and ENGINEER has reviewed each such variation and given specific written notation thereof incorporated in or accompanying the shop drawing or sample submittal. Such review by ENGINEER will not relieve CONTRACTOR from responsibility for errors or omissions in the shop Drawings or from responsibility for having complied with the provisions of Paragraph 6.14D above.
- H. Distribution of Drawings: The CONTRACTOR shall furnish prints of final shop Drawings, erection Drawings, equipment layouts, and other data to CONTRACTOR's subcontractors and suppliers for the proper coordination of their work. CONTRACTOR shall keep 1 complete set of the approved documents with the record documents on the premises at all times.

- I. Compensation: Full compensation for furnishing all shop Drawings and samples shall be considered as included in the prices paid for the items of work to which such Drawings relate and no additional compensation will be allowed therefore.
- J. Work Performed Before ENGINEER's Review: Where a shop drawing or sample is required by the specifications, any related work performed by CONTRACTOR, prior to ENGINEER's review of the pertinent submission will be at CONTRACTOR's sole risk of non-acceptance. Correction of non-acceptable work shall be at CONTRACTOR's expense.
- K. Rejection: No extra Contract Time shall be given for rejection of shop Drawings or samples.
- L. Certificate of Compliance: The ENGINEER may permit the use of certain materials or assembly prior to sampling and testing if accompanied with a certificate of compliance stating that materials involved comply in all respects with the requirements of the Contract Documents. The certificate shall be signed by the manufacturer of the materials or the manufacturer of the assembled material. The certificate of compliance must be furnished with each line of material delivered to the work and the line so certified must be clearly identified in the certificate. All materials used on the basis of a certificate of compliance may be contested by ENGINEER at any time. The fact that material is used on the basis of a certificate of compliance shall not relieve CONTRACTOR from the responsibility of incorporating material in the work which conforms to requirements of the Contract Documents and any material not conforming, whether or not in place, shall be removed and replaced at the CONTRACTOR's expense. OWNER reserves the right to refuse to permit the use of material on the basis of a certificate of compliance. The form of a certificate of compliance and its disposition shall be as ordered by the ENGINEER.

6.15 CONTINUING THE WORK

- A. During Disputes or Disagreements: 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 CONTRACTOR and OWNER may otherwise agree in writing.
- B. No Damage for Delay:
 1. *In all cases where CONTRACTOR is delayed, hindered, or obstructed in the execution of the work, or any part thereof, for any reason whatsoever, the CONTRACTOR shall not be entitled to claim or recover any damages or additional payment from the OWNER or ENGINEER. It is, however, the intent of this contract that in all cases where the CONTRACTOR is substantially delayed, hindered, or obstructed in the execution of the work through no fault of the CONTRACTOR and because of conditions beyond the CONTRACTOR's control, the Contract Time shall be extended by change order by such amount as conditions, in the judgment of the ENGINEER, justify, and such extension of Contract Time shall be the exclusive remedy of the CONTRACTOR.*
 2. *Claims relating to time shall be made in accordance with the applications provisions of Article 12.1. CONTRACTOR's plea that insufficient time was*

specified is not a valid reason for extension of Contract Time. Contract time shall not be extended for any weather-related delays.

3. *Permitting the CONTRACTOR to continue and finish the work or any part of it after the time fixed for its completion, or after that date to which the time may have been extended, will in no way operate as a waiver on the part of the OWNER of any of its rights under the contract.*

6.16 CONTRACTOR'S GENERAL WARRANTY AND GUARANTEE

- A. Defects or Damage Exclusion: CONTRACTOR warrants and guarantees to OWNER that all work will be in accordance with the Contract Documents and will not be defective. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:
 1. Abuse, modification or improper maintenance or operation by persons other than CONTRACTOR, subcontractors or suppliers; or
 2. Normal wear and tear under normal usage.
- B. CONTRACTOR's Continuing Obligation: 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 of any progress or final payment by ENGINEER;
 3. the issuance of a certificate of substantial completion or any payment by OWNER to CONTRACTOR under the Contract Documents;
 4. use or occupancy of the work or any part thereof by OWNER;
 5. any acceptance by OWNER or any failure to do so;
 6. any review and approval of a shop drawing, sample or product data submittal or the issuance of a notice of acceptability by ENGINEER;
 7. any Inspection, test or approval by others; or
 8. any correction of defective work by OWNER.
- C. Acceptance is Not a Waiver of OWNER's Rights: OWNER's acceptance of defective work shall not release or relive CONTRACTOR from warranty and guarantee provisions of this article.
- D. Survival of Obligations: All representations, indemnifications, warranties and guaranties 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 and termination or completion of the Agreement.

6.17 INDEMNIFICATION

- A. Indemnification of OWNER: CONTRACTOR shall indemnify, *defend*, and hold harmless OWNER and ENGINEER, *and their elected officials, officers, agents, employees and volunteers* from and against any and all claims, damages, losses and expenses, direct, indirect or consequential (including, but not limited to, fees and charges of ENGINEERS, architects, attorneys and other professionals and court costs) arising out of or resulting from the negligent acts or omissions in performance of the

work by CONTRACTOR, any subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, regardless of whether or not the claim, damage, loss, etc. arising from the act or omission is caused in part by a party indemnified hereunder or arises by or is imposed by law and regulations regardless of the negligence of any such party.

- B. Indemnification Not Limited: In any claims against OWNER or ENGINEER or any of their *elected officials, officers, agents, employees or volunteers* by any employees of CONTRACTOR, any subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.17.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 or other person or organization under worker's compensation acts, disability benefit acts or other employee benefit acts.
- C. Liability of ENGINEER, etc.: The obligations of CONTRACTOR under Paragraph 6.17A shall not extend to the liability of ENGINEER, OWNER's consultants, agents or employees arising out of the preparation or approval of maps, Drawings, opinions, reports, surveys, Change Orders, designs or specifications.
- D. CONTRACTOR to Save OWNER Harmless: CONTRACTOR shall assume the OWNER's defense, and save OWNER harmless from any claims directly or indirectly arising from CONTRACTOR's use or alleged use of patented or trademarked materials, design, equipment, devices, product or processes on or ultimately successful. In the event of such claims:
 - 1. OWNER shall promptly notify CONTRACTOR and CONTRACTOR shall defend against such claims, in OWNER's name, but at CONTRACTOR's expense;
 - 2. OWNER shall have the right to be represented by counsel, but such representations shall be at the OWNER's own expense; and
 - 3. at the request and expense of CONTRACTOR, the OWNER shall actively cooperate and assist CONTRACTOR to the fullest extent in the defense of any such proceedings.

In the event that CONTRACTOR shall fail to defend against any such claims, the OWNER may, in addition to any other legal remedies which the OWNER might have, at OWNER's election, defend such suit and be reimbursed by CONTRACTOR of all reasonable expenses (including attorney's fees) incurred by the OWNER in this connection, and CONTRACTOR shall pay all damages and costs awarded or otherwise suffered by OWNER in any such claim against OWNER.

6.18 HAZARDOUS WASTE GENERATION

- A. In General: The CONTRACTOR shall be responsible for ensuring that all services the CONTRACTOR and its subcontractors are required to provide under the terms of the Contract Documents are performed in accordance with applicable federal, state and local environmental regulations and within generally accepted professional performance standards for the services to be provided.

- B. Hazardous Wastes Generated by CONTRACTOR: The CONTRACTOR shall be responsible for the interim handling, evaluation and disposal of any hazardous materials and hazardous wastes generated by the CONTRACTOR or any of its subcontractors during the performance of any services under the terms of the Contract Documents, and shall ensure that handling, evaluation and final disposal of all hazardous materials and hazardous wastes are performed in accordance with the requirements outlined in 40 CFR Parts 261 and 262 and Utah Administrative Code R-450-5.
1. The CONTRACTOR shall notify the ENGINEER immediately upon discovery that the CONTRACTOR or its subcontractors has generated a hazardous waste material. If the hazardous waste material was generated as the result of a hazardous material spill, the CONTRACTOR shall be responsible for completing spill reporting requirements for all applicable environmental regulatory programs.
 2. The CONTRACTOR shall also provide the ENGINEER with documentation within eight (8) hours of the discovery indicating:
 - a. the date of waste generation;
 - b. specific waste classification or characterization;
 - c. waste quantity;
 - d. waste profile and acceptance identifying the intended disposal facility; and
 - e. copies of all Uniform Hazardous Waste Manifest documenting off-site transportation and disposal activities.
 3. CONTRACTOR shall contain hazardous material and protect workers and the public from exposure.
- C. Hazardous Wastes Generated by OWNER: The CONTRACTOR shall ensure that any services the CONTRACTOR or its subcontractors perform under the terms of the Contract Documents that involve the interim handling, evaluation and disposal of any hazardous materials and hazardous waste generated by, or the responsibility of the OWNER, shall be performed in accordance with the requirements outlined in 40 CFR Parts 261 and 262 and Utah Administrative Code R-450-5.
1. The CONTRACTOR shall also provide the ENGINEER with documentation indicating:
 - a. the date of waste generation;
 - b. specific waste classification or characterization;
 - c. waste quantity;
 - d. waste profile and acceptance identifying the intended disposal facility; and
 - e. copies of all Uniform Hazardous Waste Manifest documenting off-site transportation and disposal activities.
 2. If handling of hazardous wastes generated by OWNER is not indicated in the Contract Documents, such cost of handling shall be determined as indicated in Article 11.3.
- D. Final Disposal of Hazardous Materials and Hazardous Wastes: CONTRACTOR shall be responsible for ensuring that all hazardous materials and hazardous wastes, identified as subject to the provisions of Paragraphs 6.17A, B and C above, regardless of generator, be submitted to a facility or facilities permitted and qualified to recycle, process, or perform final disposal as required for the type of hazardous material or hazardous waste being submitted.

- E. Documentation: CONTRACTOR shall provide OWNER with documentation of appropriate disposal.

PART 7 OTHER WORK

7.1 RELATED WORK AT SITE

- A. Owners of Utilities and Franchises to Enter upon the Premises: The right is reserved to the owners of utilities and franchises to enter upon the premises for the purposes of making repairs or changes of their property that may become necessary by the work.
- B. Separate Work: OWNER may perform other work related to the project at the site by OWNER's own forces, or let other direct contracts therefore which shall contain general conditions similar to these, or have other work performed by utility owners. If the fact that such other work is to be performed was not noted in the Contract Documents, written notice thereof will be given to CONTRACTOR prior to starting any such other work. If CONTRACTOR believes that such performance will involve additional expense to CONTRACTOR or requires additional time and the parties are unable to agree as to the extent thereof, CONTRACTOR may make a claim therefore as provided in Parts 11 and 12.
- C. Access to Site: CONTRACTOR shall coordinate all phases of the work and afford each utility owner and other CONTRACTOR who is a party to such a contract (or OWNER, if OWNER is performing the additional work with OWNER's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the work with theirs.
- D. Cutting, Fitting and Patching: CONTRACTOR shall do all cutting, fitting and patching of the work that may be required to make its several parts come together properly and integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected.
- E. Delays Caused by Other Work, Defects or Deficiencies in Other Work: If the proper execution or results of any part of CONTRACTOR's work depends upon work performed by others under this Part 7, CONTRACTOR shall inspect and promptly report to ENGINEER in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. CONTRACTOR's failure so to report will constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR's work except for latent or non-apparent defects and deficiencies in the other work.

7.2 COORDINATION

- A. Coordinating Agent, Identified in Supplementary Conditions: If OWNER contracts with others for the performance of other work on the project at the site, the person or organization who will have authority and responsibility for coordination of the activities among the various prime CONTRACTORS will be identified in the supplementary conditions. The specific matters to be covered by such authority and responsibility will be itemized, and the extent of such authority and responsibilities

will be provided in the supplementary conditions, OWNER shall have sole authority and responsibility in respect of such coordination.

- B. Ceasing Work Temporarily: If other CONTRACTORS under separate OWNER contracts are unable to join their work in a manner acceptable to all, ENGINEER will decide if CONTRACTOR or other CONTRACTORS shall cease work temporarily. Should CONTRACTOR be adversely affected by the work of other CONTRACTORS, additional compensation or project completion time will be granted provided the delays or interference are not the results of the CONTRACTOR's own actions or inactions. The OWNER also reserves the right to deduct from sums of money due the CONTRACTOR for all costs incurred by the OWNER which are the result of the CONTRACTOR not properly coordinating work.

7.3 UTILITY ARRANGEMENTS

- A. Should CONTRACTOR desire a rearrangement made in any utility facility for CONTRACTOR's convenience in order to facilitate construction operations, which is an addition to or different from the arrangements indicated on the Drawings or in the specifications, CONTRACTOR shall make such arrangements as are necessary with the utility and bear all expenses in connection therewith.

7.4 WORK DONE BEYOND THE SITE

- A. Any work done beyond the limits shown on the Drawings or established in writing by ENGINEER, will be considered as unauthorized and no payment will be made therefore.

PART 8 OWNER'S RESPONSIBILITIES

8.1 OWNER'S RESPONSIBILITIES

- A. Communications: OWNER shall issue all communications to CONTRACTOR through ENGINEER as per Article 2.8.
- B. Tests and Observations: OWNER's responsibility in respect of certain Inspections, tests and observations is set forth in Article 13.3.
- C. Work Suspension: In connection with OWNER's right to stop work or suspend work, see Article 15.1. Article 15.2 deals with OWNER's right to terminate services of CONTRACTOR under certain circumstances.
- D. Furnishing Data: OWNER shall promptly furnish the data required of OWNER under the Contract Documents.
- E. Prompt Payment: OWNER shall promptly make payments to CONTRACTOR after they are due as provided in Paragraphs 14.4 and 14.9.

PART 9 ENGINEER'S STATUS DURING CONSTRUCTION

9.1 OWNER'S REPRESENTATIVE

- A. General: ENGINEER will be OWNER's representative and agent during the Contract Time, until final payment is due and, with the OWNER's concurrence, from time to time during the correction period described in Article 13.7.
- B. Limitations: ENGINEER shall have the authority to act on behalf of the OWNER only to the extent provided in the Contract Documents.

- C. Changing Representative: ENGINEER may be changed by the OWNER upon written notice to the CONTRACTOR.

9.2 PROJECT REPRESENTATIVE

- A. ENGINEER may furnish a resident project representative and such other assistants as ENGINEER deems necessary to observe that the materials to be furnished and the work done strictly conforms to the Contract Documents.

9.3 AUTHORITY AND DUTIES OF RESIDENT PROJECT REPRESENTATIVE

- A. General: The resident project representative:
 1. shall be permitted to observe all work done and all material furnished. Such observation may extend to all or any part of the work and to the preparation, fabrication, or manufacture of the materials to be used;
 2. is not authorized to revoke, alter, or waive any requirement of the Contract Documents;
 3. is authorized to call the attention of CONTRACTOR to any failure of the work or materials to conform to the Contract Documents;
 4. shall have authority to reject materials and suspend all or any part of the work until any question at issue can be referred to and decided by the ENGINEER; and
 5. shall in no case act or be considered as CONTRACTOR's foreman or perform duties for CONTRACTOR.
- B. Limitations: Any advice that the resident project representative may give the CONTRACTOR, other than set forth in Paragraph 9.3A above, shall not be binding upon the ENGINEER or OWNER. Nor shall such advice release or relieve CONTRACTOR of compliance with the Contract Documents.
- C. Suspension of Work: If work is to be suspended; the resident project representative shall issue a written order giving the reason for shutting down the work. In the absence of such written order, CONTRACTOR shall not deem the work to be suspended. After placing the order in the hands of the CONTRACTOR's agent in charge at the site, any work done thereafter may not be accepted, at ENGINEER's discretion.

9.4 CLARIFICATIONS AND INTERPRETATIONS

- A. Should it appear that the work or any of the matters relative thereto are not sufficiently detailed or explained in the Contract Documents, the CONTRACTOR shall request the ENGINEER to provide such further explanations as may be necessary for CONTRACTOR. ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as ENGINEER may determine necessary. These shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. CONTRACTOR shall conform to such explanations as part of the work.
- B. Any order or instruction given to the CONTRACTOR by the ENGINEER shall either be given or confirmed in writing. However, the ENGINEER's failure to put such an order or instruction in writing shall not relieve the CONTRACTOR of

CONTRACTOR's responsibility to comply with the terms and conditions of the Contract Documents.

- C. If CONTRACTOR disputes ENGINEER's explanation or interpretation of the requirements of the Contract Documents, CONTRACTOR may request dispute resolution as specified in Part 16.

9.5 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 Time and are consistent with the overall intent of the Contract Documents. These may be accomplished by a work directive change. If CONTRACTOR believes that an increase in the contract price or an extension of the Contract Time is justified, and the OWNER and the CONTRACTOR are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefore as provided in Part 11 or 12.

9.6 REJECTING DEFECTIVE WORK

- A. ENGINEER has the 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 also has the authority to require special Inspection or testing of the work, whether or not the work is fabricated, installed or completed. The failure of the ENGINEER to reject such work shall not release or relieve CONTRACTOR from conformance to the contract document requirements.

9.7 NOTICE OF INTENTION TO APPEAL

- A. ENGINEER will determine the actual quantities and classifications of unit price work performed by CONTRACTOR and will review with CONTRACTOR any preliminary determinations on such matters before rendering a written decision. ENGINEER's written decision will be final and binding upon CONTRACTOR, unless, within 10 days after the receipt of any such decision CONTRACTOR delivers to ENGINEER written notice of intention to appeal such a decision. Such an appeal may be taken in accordance with the provisions of Part 16 of these general conditions 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 Article 6.15.

9.8 DECISIONS ON DISPUTES

- A. Interpretation of Contract Documents: ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder. Claims or disputes concerning a question of fact or other matters relating to the acceptability of the work, the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the work or claims under Parts 11 and 12 in respect of changes in the contract price or Contract Time will be referred initially to ENGINEER in writing with a request for a formal

decision in accordance with this paragraph. ENGINEER will render decision in writing within 3 days of submission of the request for decision. Failure by ENGINEER to respond within said time shall be deemed a denial of CONTRACTOR's request for relief.

- B. Time for Notice of Dispute: CONTRACTOR shall submit written notice of each claim or dispute to ENGINEER promptly after occurrence of the event(s) giving rise thereto, but in no case shall said notice be delivered later than 30 days after said occurrence. Failure to submit said notice within said 30 days shall be deemed a waiver thereof by CONTRACTOR. CONTRACTOR shall also submit all written supporting data to ENGINEER within 60 days after said occurrence unless ENGINEER allows an additional period of time.
- C. Effect of ENGINEER's Decision: ENGINEER's decision concerning such claim or dispute (except any which have been waived by the making or acceptance of final payment as provided in Paragraph 14.9) will be the final expression of OWNER's position on said claim or dispute. Further, said decision shall be a condition precedent to any exercise by OWNER or CONTRACTOR of any rights or remedies as either may have under the Contract Documents or by law in respect of any such claim or dispute. ENGINEER's decision as to any allowable deviations shall be final and binding on CONTRACTOR.

9.9 LIMITATIONS ON ENGINEER'S RESPONSIBILITIES

- A. ENGINEER Not CONTRACTOR's Agent: Neither ENGINEER, ENGINEER's representative or OWNER shall act nor be considered as the CONTRACTOR's, subcontractor's, supplier's or surety's superintendent, foreman or part of their work force in any manner or form not shall they perform work or duties of the CONTRACTOR.
- B. Evaluate the Work for Contract Compliance: Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as approved", or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory", or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of ENGINEER as to the work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the work for compliance with Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective does not assign to ENGINEER or OWNER any duty or authority to supervise or direct the furnishing or performance of the work or any duty or authority to undertake responsibility contrary to the provisions of Paragraphs 9.9C or 9.9D. Neither ENGINEER's taking or failing to take such actions or make any such reviews shall release or relieve the CONTRACTOR from CONTRACTOR's responsibility to comply with the contract document requirements.
- C. Not Responsible for CONTRACTOR's Construction Operations: Neither the ENGINEER nor the OWNER will be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto. ENGINEER and OWNER will not be responsible for CONTRACTOR's failure to perform or furnish the work in accordance with the Contract Documents. Any advice which ENGINEER may give

the CONTRACTOR, other than as set forth in Paragraph 9.3A above, shall not be binding in any way upon the ENGINEER or the OWNER. Such instruction or statement shall not release or relieve the CONTRACTOR from compliance with all of the terms and conditions of the Contract Documents.

- D. Not Responsible for CONTRACTOR's Acts or Omissions: ENGINEER and OWNER will not be responsible for the acts or omissions of CONTRACTOR or of any subcontractor, any supplier, or of any other person or organization performing or furnishing any of the work.
- E. Intimidation of ENGINEER: ENGINEER or ENGINEER's representatives shall at all times be free to perform ENGINEER's duties without any intimidation. At ENGINEER's request, the CONTRACTOR shall remove from the work any employee causing such intimidation. Failure to do so shall be sufficient reason for ENGINEER to recommend to OWNER and for the OWNER's cancellation or termination of the construction contract.

PART 10 CHANGES IN THE WORK

10.1 ADDITIONS, DELETIONS, REVISIONS

- A. Modifications: Without invalidating the construction 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. These will be authorized by a work directive change or a Change Order.
- B. Work Directive Change: Work directive changes shall be issued by the ENGINEER. If the contract price or Contract Time are affected by a work directive change, the work specified in the work directive change shall be incorporated in a subsequently issued Change Order following negotiations by the CONTRACTOR and ENGINEER as to its effect on the contract price and Contract Time. During disputes or disagreements with the OWNER or ENGINEER regarding a work directive change, the CONTRACTOR shall promptly proceed with the work described in the work directive change as indicated in Article 6.15.
- C. Change Order: OWNER and CONTRACTOR shall execute appropriate Change Orders covering changes in the work, contract price or Contract Time which are agreed to by the parties. *Any Change Order request shall be submitted using the form in "Exhibit B"*
- D. Drawings: Drawings accompanying work directive changes and Change Orders shall be deemed a part of such documents.
- E. Payment: It is understood and agreed by the OWNER and CONTRACTOR that no money will be paid to the CONTRACTOR for any new or additional labor, materials or equipment furnished, unless a Change Order for such has been made in writing and executed by the OWNER and CONTRACTOR.

10.2 WORK NOT REQUIRED BY CONTRACT DOCUMENTS

- A. CONTRACTOR shall not be entitled to an increase in the contract price or an extension of the Contract Time with respect to any work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in Article 3.3 except in the case of an emergency as provided in Article 6.13 and except in the case of uncovering work as provided in Paragraph 13.5B.

10.3 NOTICE TO SURETY

- A. If notice of any change affecting the general scope of the work or the provisions of the Contract Documents (including, but not limited to contract price or Contract Time) is required by the provisions of any bond to be given to a surety, the giving of any such notice will be CONTRACTOR's responsibility, and the amount of each applicable bond will be adjusted accordingly.

PART 11 CHANGE OF CONTRACT PRICE

11.1 CONTRACT PRICE

- A. The contract price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for performing the work. All duties, responsibilities and obligations assigned to or undertaken by CONTRACTOR shall be at CONTRACTOR's expense without change in the contract price.

11.2 CONTRACT PRICE ADJUSTMENT

- A. In General: The contract price may only be changed by Change Order. No claim for an adjustment on the contract price will be considered or paid if not submitted in accordance with the requirements of this Article 11.2.
- B. Written Notice: Any claim for an increase or decrease in the contract price shall be based on written notice. Notice shall be promptly delivered by the party making the claim to the other party (but in no event later than 30 days) after the occurrence of the event giving rise to the claim. The notice shall state the general nature of the claim.
- C. Deadline for Claim Submittal: A complete detailed statement of the amount and nature of the claim, with all necessary supporting data shall be delivered within 60 days after such occurrence. ENGINEER may allow an additional period of time to ascertain more accurate data in support of the claim.
- D. Notice Required: Failure to submit the notice, and detailed statement referenced above shall bar Claimant from pursuing said claim in any other forum, judicial or administrative.
- E. Acknowledgement: The notice shall be accompanied by Claimant's written statement that the amount claimed covers all known cost amounts (direct, indirect and consequential costs, including without limitation, delay costs, third party costs, lost profits and any other costs) to which the Claimant is entitled as a result of the occurrence of said event.
- F. All Claims Determined by ENGINEER: All claims for adjustment in the contract price shall be determined by ENGINEER in accordance with Paragraph 9.8A if OWNER and CONTRACTOR cannot otherwise agree.

11.3 DETERMINING CONTRACT PRICE ADJUSTMENT

- A. The value of any work covered by a Change Order or of any claim for an increase or decrease in the contract price shall be determined by ENGINEER in one of the following ways:

1. Unit Prices: Where the work involved is covered by unit prices contained in the Contract Documents, the contract price change will be recalculated by application of unit prices to the quantities of the items involved (subject to the provisions of Article 11.7).
2. Lump Sum Price:
 - a. Contract Price Increases: the CONTRACTOR and OWNER may mutually accept a stipulated sum (which may include an allowance for overhead and profit not necessarily in accordance with Article 11.5).
 - b. Contract Price Decreases: The amount of credit to be allowed by CONTRACTOR to OWNER for any change which results in a net decrease in the contract price will be the net amount of the decrease plus a deduction in CONTRACTOR's fee. The deduction in the CONTRACTOR's fee shall be 10 percent of the net amount of the decrease.
3. Force Account (Cost of the Work Plus CONTRACTOR's Fee): If the cost of unit price work cannot be calculated or the cost of lump sum work cannot be agreed to, contract price adjustment shall be calculated on the basis of the cost of the work (determined as provided in Article 11.4) plus a CONTRACTOR's fee for overhead and profit (determined as provided in Article 11.5).

11.4 COST OF THE WORK

- A. Cost of the Work Includes: Except as otherwise agreed to in writing with OWNER, the Cost of the Work (1) shall be in amounts no higher than those prevailing in the locality of the project, (2) shall not include any of the costs itemized in Paragraph 11.4B, and (3) shall include only the following items:
 1. Certified Payroll Costs: Certified 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. 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 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. Such employees shall include superintendents and foremen at the site. These expenses of performing work after regular working hours, on Saturday, Sunday or legal holidays, shall be included in the above only to the extent such work was authorized by OWNER.
 2. Cost of All Materials and Equipment: 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 all 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: If required by ENGINEER, CONTRACTOR shall obtain competitive Bids from subcontractors

acceptable to CONTRACTOR and shall deliver such Bids to ENGINEER who will then determine, which Bids will be accepted. If a 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 shall be determined in the same manner as CONTRACTOR's cost of the work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

4. Costs of Special Consultants: Costs of special consultants (including, but not limited to, ENGINEERS, architects, testing laboratories, surveyors and accountants) employed for services specifically related to the work.
5. Supplemental costs: Supplemental costs include the following:
 - a. Expenses of Employees: The proportion of necessary transportation, travel and subsistence expenses of CONTRACTOR's employees reasonably incurred in discharge of duties connected with the work, except the following:
 - 1) costs for commute between residence and the work site;
 - 2) meals taken at locations within commuting distance of the work site; and
 - 3) clothing.
 - b. Consumable Products and Equipment: 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 the difference in market value, of items used but not consumed which remain the property of CONTRACTOR.
 - c. Depreciation: cost, less the difference in market value, of items used but not consumed which remain the property of CONTRACTOR.
 - d. Rentals: Rentals of all construction equipment and machinery and the parts thereof, whether rented from CONTRACTOR or others, in accordance with rental agreements approved by ENGINEER, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof all in accordance with 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.
 - e. Sales, Consumer, Use or Similar Taxes: Sales, consumer, use or similar taxes related to the work, and for which CONTRACTOR is liable, imposed by laws and regulations.
 - f. Royalty Payments, Fees for Permits and Licenses, Deposits: royalty payments, fees for permits and licenses, and 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.
 - g. The Cost of Utilities: The cost of utilities, fuel and sanitary facilities at the site in connection with the work.
 - h. Minor Expenses: Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, express delivery and similar petty cash items in connection with the work.

- i. Additional Bonds and Insurance: Cost of premiums for additional Bonds and insurance required solely because of changes in the work and premiums for property insurance coverage.
- B. Cost of Work Does Not Include: The term “Cost of the Work” shall not include overhead or general expense costs including, but not limited to, the following:
 1. Payroll Costs and Other Compensation: Payroll costs and other compensation of CONTRACTOR’s officers, employees and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR’s principal or a branch office for general administration of the work and not specifically included I the agreed upon schedule or job classifications referred to in Paragraph 11.4A.1. or specifically covered by Paragraph 11.4A.4.
 2. Principal and Branch Offices: Expenses of CONTRACTOR’s principal and branch offices other than CONTRACTOR’s office at the site.
 3. Capital Expenses: 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. General Bonds and General Insurance: Cost of premiums for Bonds and insurance not directly related to the work, whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by Paragraph 11.4A.5.i. above).
 5. Negligence: 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 of payments for personal injury or death.
 6. Other Expenses: Other overhead or general expense cost of any kind and the costs of any item not specifically and expressly included in Paragraph 11.4A.
 7. Dispute Costs: Cost of court fees, attorneys or experts retained for presenting evidence pertaining to any dispute with OWNER and ENGINEER concerning CONTRACTOR’s cost of work.
- C. Documentation Supporting Cost of the Work: Whenever the cost of any work is to be determined, CONTRACTOR will submit in form acceptable to ENGINEER an itemized cost breakdown together with supporting data.
 1. Reports by subcontractors or others shall be submitted through the CONTRACTOR. In the event of irreconcilable disagreement, pertinent notes shall be entered on the daily reports by each party to explain points which cannot be resolved immediately.
 2. For work covered by force account at the close of each working day, the CONTRACTOR shall submit such daily report to the ENGINEER together with applicable delivery tickets listing all labor, materials and equipment involving the force account work for that day. Failure to submit the daily report by the close of the next working day will waive any rights for that day. The report shall be signed by CONTRACTOR and ENGINEER.

11.5 CONTRACTOR’S FEE

- A. Allowable Fee: The CONTRACTOR's fee allowed for overhead and profit shall be determined as follows:
1. A mutually acceptable fixed fee; or,
 2. If no acceptable fixed fee can be agreed upon, a fee based on the following percentages of the various portions of the cost of the work:
 - a. For costs incurred under Paragraphs 11.4A.1. and 11.4A.2., the CONTRACTOR's fee shall be 15 percent;
 - b. For costs incurred under Paragraph 11.4A.3., the CONTRACTOR's fee shall be five (5) percent.
 - c. If a subcontract is on the basis of the cost of the work plus a fee, and no fixed fee is agreed upon, the maximum allowable to the subcontractor who actually performs or furnished the work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such subcontractor under Paragraphs 11.4A.1., and 11.4A.2., and that any higher tier subcontractor and CONTRACTOR will each be paid a fee of five (5) 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 11.4A.4., 11.4A.5., and 11.4B.
- B. Adjustment to CONTRACTOR's Fee: 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 11.5A.2.a. through 11.5A.2.c., inclusive.
- C. Allowable Credit: 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 decrease plus a deduction in CONTRACTOR's fee by an amount equal to the equivalent amount authorized under Paragraph 11.5A above.

11.6 CASH ALLOWANCES

- A. In General: Cash allowances, if indicated in the Contract Documents, are provided for the payment of fees or the purchase and installation of products, the cost of which is to be determined upon performance of the work. It is understood that CONTRACTOR has included in the contract price all allowances so named in the Contract Documents. CONTRACTOR shall cause the work so covered, to be done for such sums within the limit of the allowances as may be acceptable to ENGINEER.
- B. Allowances Include: CONTRACTOR agrees:
1. that the allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the site, and all applicable taxes; and
 2. CONTRACTOR's costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the allowances have been included in the contract price and not in the allowances. No demand for additional payment on account of any thereof will be valid.
- C. Allowances Payment: Prior to final payment, an appropriate Change Order shall be issued to reflect actual amounts due the CONTRACTOR on account of work covered by allowances, and the contract price shall be correspondingly adjusted.

11.7 UNIT PRICE WORK

A. Contract Price:

1. Initial Contract Price: Where the Contract Documents provide that all or part of the work is to be unit price work, the contract price shall initially include, for all unit price work an amount equal to the sum of the established unit prices for each separately identified item of unit price work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of unit price work are not guaranteed. They are solely for the purpose of comparing Bids and determining an initial contract price.
2. Actual Contract Price: The actual contract price shall be established when CONTRACTOR accepts final payment from OWNER. Determinations of the actual quantities and classifications of unit price work performed by CONTRACTOR will be made by ENGINEER in accordance with Article 9.7.

B. Overhead and Profit: 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 and no additional payment for overhead or profit will be claimed or paid.

C. Quantity of Unit Price Work: An increase in the quantity of any unit price work which does not involve any basic change in the nature or conditions of the work will be paid for at the unit prices. Where work alterations increase, diminish or eliminate any of the unit price work, CONTRACTOR shall be paid for the work actually done and materials supplied at the unit prices. Unit prices which have not been set as stated in Paragraph 11.7N above shall be adjusted to comply with said paragraph before payment for such changes is made.

D. Adjusting Contract Price: If a claim is made to the ENGINEER, which states the quantity of an item of unit price work performed by the CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement, and if CONTRACTOR or OWNER believes that an increase or a decrease of expenses as a result thereof has occurred, CONTRACTOR or OWNER may claim for an increase or decrease in the contract price if:

1. there is an enlargement or reduction of the work under the original Contract Documents by more than 25 percent; or
2. there is an increase or decrease or more than 25 percent in the initial contract price; or
3. there is an increase or decrease or more than 25 percent in the quantity of a major unit price item of work.

Notwithstanding the foregoing, the OWNER and the CONTRACTOR shall be entitled to claim a cost increase or decrease only for that portion of the cost of the work which exceeds 25 percent.

E. Adding Unit Price Work to the Contract Documents: If new, additional, or unforeseen work or material is required which, due to the nature or conditions of the work, or locations, does not conform to the quantities and classifications of unit price work provided for in the Contract Documents, then such work or material will be considered as additional work. The work shall be executed by the CONTRACTOR, in the manner and under the quantities and classifications of unit price work set forth

in a Change Order which will be entered into between the OWNER and the CONTRACTOR.

11.8 FORCE ACCOUNT WORK (COST OF THE WORK PLUS CONTRACTOR'S FEE)

- A. In General: When contract price adjustments cannot be agreed upon in advance of additional work requested by ENGINEER, OWNER may require CONTRACTOR to do such work on a force account basis.
- B. Determining Contract Price Adjustment: The value of the force account work shall be determined in accordance with Paragraph 11.3A.3.
- C. OWNER Furnished Materials: OWNER reserves the right to furnish part or all materials or equipment and CONTRACTOR shall have no claim for profit on the cost of such material or equipment so furnished.

PART 12 CHANGE OF CONTRACT TIME

12.1 CONTRACT TIME ADJUSTMENT

- A. In General: The Contract Time or milestones may only be changed by a Change Order. No claim for an adjustment in the Contract Time or milestones will be valid if not submitted in accordance with requirements of this Article 12.1.
- B. Preliminary Written Notice: Except for delays due to weather, any claim for an extension or shortening of the Contract Time shall be based on a preliminary written notice delivered by the party making the claim to the other party promptly (but in no event later than 15 days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim.
- C. Deadline for Submitting Claim Data Notice: Final notice of the extent of the claim with supporting data shall be delivered within 60 days after such occurrence. ENGINEER may allow an additional period of time to ascertain more accurate data in support of the claim.
- D. Acknowledgement: The final notice shall be accompanied by CONTRACTOR's written statement that the amount claimed is the entire adjustment to which the CONTRACTOR has reason to believe the CONTRACTOR is entitled as a result of the occurrence of said event.
- E. No Time for lack of Submittal: No time extensions will be allowed in the progress of the work attributable to CONTRACTOR's failure to make submittals required by Article 2.5.
- F. All Claims Determined by ENGINEER: All claims for adjustment in the Contract Time shall be determined by ENGINEER in accordance with Paragraph 9.8A if OWNER and CONTRACTOR cannot otherwise agree.

12.2 DELAY NOT CAUSED BY CONTRACTOR

- A. Delays caused by war, public enemy or acts of God shall be considered just cause for OWNER to grant time extensions.
- B. CONTRACTOR shall be granted time extensions for which liquidated damages will not be claimed when the delay is determined to be caused by the OWNER, other CONTRACTORS or utility companies working at OWNER's request, except when

such delays are the result of CONTRACTOR's own lack of project coordination or work effort.

12.3 DELAYS RELATED TO WEATHER

- A. Delays related to weather shall only be reviewed or considered by ENGINEER after 90 percent or more of the Contract Time has been expended.
- B. In requesting weather time CONTRACTOR shall:
 - 1. Submit all weather data to ENGINEER, and
 - 2. Provide a written explanation of how weather prevented work on an item on the progress schedule's critical path.
- C. The OWNER shall grant additional time for weather delays if OWNER finds:
 - 1. Both the amount and length of inclement weather were excessive or unexpectedly severe for the time and season the work was scheduled to be performed.
 - 2. The inclement weather prevented work pursuant to a scheduled critical path item of work. If the CONTRACTOR's progress schedule during the inclement weather does not show the anticipated critical path, ENGINEER will judge which activities were critical; and
 - 3. Appropriate measures were taken by the CONTRACTOR to mitigate the effects of inclement weather.
- D. No time will be granted if the work claimed to have been delayed would not have been on the critical path except for earlier delays caused by CONTRACTOR.
- E. No time extensions will be granted for weather delay outside of the Contract Time period or the punch list time period.

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

13.1 NOTICE OF DEFECTS

- A. Prompt notice of all defective work of which OWNER or ENGINEER have actual knowledge will be given to CONTRACTOR. All defective work, whether or not in place, may be rejected, corrected or accepted as provided in this Part 13.

13.2 ACCESS TO WORK

- A. ENGINEER and ENGINEER's representatives, other representatives of OWNER, testing agencies and governmental agencies with jurisdictional interests will have access to the work at reasonable times for their observation, inspecting and testing. CONTRACTOR shall provide proper and safe conditions for such access and advise them of CONTRACTOR's site safety procedures and programs so that they may comply therewith as applicable.

13.3 TESTS AND INSPECTIONS

- A. In General:
 - 1. Determining Contract Compliance and Acceptance: testing, or work for determining contract compliance shall be performed by CONTRACTOR. OWNER anticipates performing tests and Inspections or having tests and Inspections performed as part of its acceptance procedure.

2. CONTRACTOR Furnish Labor: CONTRACTOR shall furnish, at no additional cost to the OWNER, such labor as may be required to enable a thorough Inspection and culling of all materials.
 3. CONTRACTOR Furnish Samples: Upon ENGINEER's request, CONTRACTOR shall furnish to ENGINEER such samples of materials as proposed to be used, in sufficient amounts as required to make proper tests.
 4. Notice, 24 Hours: CONTRACTOR shall give ENGINEER at least 24 hours notice of readiness of the work for all required observations, tests and Inspections.
- B. Inspections, Tests and Retests:
1. If ENGINEER determines that material or equipment fails the contract requirements, ENGINEER may reject such material or equipment, or accept such as defective work in accordance with Article 13.8.
 2. Inspection and testing of materials and equipment made by ENGINEER shall not release or relieve CONTRACTOR from compliance with the Contract Documents.
 3. Any re-Inspection and retesting of work or materials rejected by ENGINEER after the initial testing or Inspection shall be at CONTRACTOR's expense until a retest meets the requirements of the Contract Documents.
- C. Costs of Inspections Assessable to:
1. If laws or regulations of any public body having jurisdiction require any work (or part thereof) to specifically be inspected, tested or approved, CONTRACTOR shall assume full responsibility therefore, pay all costs in connection therewith and furnish ENGINEER the required certificates of Inspection, testing or approval.
 2. CONTRACTOR shall be responsible for and shall pay all costs in connection with any Inspection or testing required in connection with OWNER's or ENGINEER's acceptance of a supplier of materials or equipment proposed to be incorporated in the work, or of materials or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the work. Adequate facilities shall be furnished free of charge to make the necessary Inspection. ENGINEER assumes no obligation to observe materials at the source of supply nor does such Inspection assure conformance to the Contract Documents.
 3. The cost of all Inspections, tests and approvals in addition to the above which are required by the Contract Documents shall be paid by OWNER (unless otherwise specified in the supplementary conditions).

13.4 DEFECTIVE WORK

- A. Any work or materials not in accordance with the Contract Documents that may be discovered before work completion shall be corrected at no additional cost to the OWNER upon notification by the ENGINEER. Failure on the part of ENGINEER to discover, condemn or reject materials or work shall not be construed to imply acceptance of the same should their noncompliance become evident before or after work completion. It is expressly understood that nothing in this paragraph waives any of the OWNER's rights under the guarantee provision of this Part 13.

- B. Work may be judged defective by ENGINEER regardless of cause, except when such defect or failures are the result of ENGINEER's design deficiencies, acts of God, misuse by OWNER, or due to vandalism.
- C. CONTRACTOR shall immediately remove all rejected materials and equipment from the premises and to such a point distant therefrom as ENGINEER may require.

13.5 UNCOVERING WORK

- A. If any work is covered contrary to ENGINEER's written request, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and be recovered 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. CONTRACTOR shall furnish all necessary labor, material and equipment.
 - 1. If it is found that such work is defective, CONTRACTOR shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, Inspection and testing and of satisfactory reconstruction, including, but not limited to, fees and charges of ENGINEERS, architects, and other professionals. If OWNER accepts such defective work, 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 therefore as provided in Part 11 of these general conditions.
 - 2. If such work is not found to be defective, CONTRACTOR shall be allowed an increase in the contract price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, Inspection, testing and reconstruction. If the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefore as provided in Parts 11 and 12.

13.6 CORRECTION OR REMOVAL OF DEFECTIVE WORK BY CONTRACTOR

- A. If required by ENGINEER, CONTRACTOR shall promptly, as directed, either correct all defective work, whether or not fabricated, installed or completed, or, if the work has been rejected by ENGINEER, remove it from the site and replace it with non-defective work. No rejected material, the defects of which have been subsequently corrected, shall be used in the work unless approval in writing has been given by the ENGINEER. CONTRACTOR shall bear all direct, indirect and consequential costs of such correction or removal (including, but not limited to, fees and charges of OWNER, ENGINEERS, architects, and other professionals) made necessary thereby.

13.7 CORRECTION PERIOD

- A. If any portion of the work is found to be defective within 1 year after the **date of substantial completion**, CONTRACTOR shall correct it or replace it with non-defective work. The 1 year correction period may be superseded by such longer

- period of time as prescribed in the Contract Documents or by special guarantee terms required by the Contract Documents.
- B. If CONTRACTOR fails to correct defective work within 15 days after rejection or notice by OWNER or ENGINEER, or in an emergency where notice and delay would cause serious risk of loss or damage, OWNER may have the defective work corrected or removed and replaced. The CONTRACTOR and CONTRACTOR's surety shall be liable for and pay for all direct, indirect and consequential costs of such correction or removal and replacement by OWNER (including, but not limited to, fees and charges of ENGINEERS, architects and other professionals).
 - C. In circumstances where a portion of the work or a particular item of equipment is placed in continuous service before substantial completion of all the work, the correction period for that work or item may start from an earlier date if so provided in the Contract Documents or by Change Order.
 - D. If material or equipment fails during the one year correction period or during its warranty or guarantee period and is therefore repaired or replaced by CONTRACTOR, the one year correction period or the warranty or guarantee period shall be extended by the CONTRACTOR for such repair or replacement from the date of such repair or replacement for a length of time equal to the original one year correction period or warranty or guarantee period.

13.8 ACCEPTANCE OF DEFECTIVE WORK

- A. Acceptance is OWNER's Choice: OWNER may accept defective work instead of requiring correction or removal and replacement. CONTRACTOR shall bear all direct, indirect and consequential costs attributable to ENGINEER's evaluation of and determination to accept such defective work (such costs to be approved by ENGINEER as to reasonableness and may include, but are not limited to, fees and charges of ENGINEERS, architects, and other professionals).
- B. Decrease in Contract Price: If acceptance of defective work occurs prior to final payment, a Change Order will be issued in the case of lump sum work, or in the case of unit price work, the quantities will be adjusted accordingly. Any necessary revisions in the Contract Documents with respect to the work will be described and the 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 therefore as provided in Part 11.
- C. Acceptance is Not a Waiver of OWNER's Rights: OWNER's acceptance of defective work shall not release or relieve CONTRACTOR from warranty and guarantee provisions of this Part 13.

13.9 OWNER MAY CORRECT DEFECTIVE WORK

- A. Notice: OWNER may correct and remedy any work deficiency:
 - 1. If CONTRACTOR fails after 15 days' written notice of ENGINEER to proceed to correct defective work or to remove and replace rejected work as required by ENGINEER in accordance with Article 13.6; or
 - 2. If CONTRACTOR fails to perform the work in accordance with the Contract Documents; or,

3. If CONTRACTOR fails to comply with any other provision of the Contract Documents.
- B. OWNER to Expedite Work: In exercising the rights and remedies under this paragraph, OWNER shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, OWNER may:
 1. Exclude CONTRACTOR from all or part of the site;
 2. Take possession of all or part of the work, and suspend CONTRACTOR's services related thereto;
 3. Take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the site; and
 4. Incorporate in the work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere.
- C. CONTRACTOR to Allow Access: CONTRACTOR shall allow OWNER, OWNER's representatives, agents and employees such access to the site as may be necessary to enable OWNER to exercise the rights and remedies under this Article.
- D. Direct, Indirect and Consequential Costs: All direct, indirect and consequential costs of OWNER in exercising such rights and remedies will be charged against CONTRACTOR in an amount determined to be reasonable by ENGINEER. A Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the work and the OWNER shall be entitled to an appropriate decrease in the contract price. Such direct, indirect and consequential costs will include, but not be limited to, fees and charges of ENGINEERS, architects and other professionals, all court costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of CONTRACTOR's defective work.
- E. CONTRACTOR Can Appeal: CONTRACTOR may appeal OWNER's claim in accordance with the dispute resolution process established in the Agreement.
- F. Contract Time Extension: CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the work attributable to the exercise by OWNER of OWNER's rights and remedies.

PART 14 PAYMENTS TO CONTRACTOR AND COMPLETION

14.1 BASIS FOR PROGRESS PAYMENTS

- A. Lump Sum Work: The schedule of values (as defined in Paragraph 2.5B.3. and established as provided in Article 2.7) will serve as the basis for progress payments and will be incorporated into an Application for Payment form acceptable to ENGINEER.
- B. Unit Price Work: Progress payments will be based on the number of units completed.

14.2 APPLICATION FOR PROGRESS PAYMENTS

- A. Once a Month: Progress payments shall not be processed more often than once a month.
- B. Contents of Applications: **To request payment, CONTRACTOR shall submit to ENGINEER a signed Application for Payment, utilizing form attached as Exhibit A to General Conditions, which accurately reflects the work completed as of the date of the application and which is accompanied by such supporting**

documentation as is required by the Contract Documents. Completed Quantities shall be in whole units and total of all billings shall not exceed one hundred percent (100%) of any Bid Item.

1. Such application may include requests for payment on account of changes in the Work which have been properly authorized by Work Directive Changes but not yet included in a Change Order, if such request does not exceed the current Contract Price.
 2. Such applications may not include requests for payment of amounts the CONTRACTOR does not intend to pay to a Subcontractor or Supplier because of dispute or other reason.
- C. Materials and Equipment Supplied but Not Installed: Payment may be made for materials and equipment not incorporated in the work but delivered and suitably stored at the site or at another location agreed to in writing if the CONTRACTOR satisfies the following requirements:
1. A bill of sale, invoice or other documentation shall be attached to the application warranting that OWNER has received the materials and equipment free and clear of all liens.
 2. Evidence shall be provided which indicates the materials and equipment are covered by appropriate property insurance and other arrangements to protect OWNER's interest therein.
 3. All documentation shall be satisfactory to the ENGINEER.
- D. Withholding of Payment: The OWNER reserves the right to withhold the first and all subsequent partial payments due the CONTRACTOR until submittals listed in Paragraph 2.5B are submitted in a form acceptable to the ENGINEER.
- E. Retainage: The amount of retainage (if any) with respect to progress payments will be as stipulated in the Agreement or supplementary conditions.

14.3 REVIEW OF APPLICATIONS FOR PROGRESS PAYMENT

- 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 or other claims.

14.4 REVIEW OF APPLICATIONS FOR PROGRESS PAYMENT

- A. Submittal: ENGINEER will, within 10 days after receipt of each Application for Payment, either process the application or return the application to CONTRACTOR indicating reasons for refusing to approve payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the application. Within 30 days after presentation of an approved Application for Payment, the amount approved will (subject to the provisions of Paragraph 14.4C) be paid by OWNER to CONTRACTOR.
- B. ENGINEER May Reject Submission: ENGINEER may refuse to approve the whole or any part of any payment if, in ENGINEER's opinion:
1. the work is unsafe or inaccessible and therefore ENGINEER cannot determine if the work is acceptable;

2. the work is defective, or completed work has been damaged requiring correction or replacement;
 3. the OWNER has been required to correct defective work or complete work in accordance with Article 13.9;
 4. the ENGINEER has actual knowledge of the occurrence of any of the events enumerated in Article 15.2; or
 5. Subsequently discovered evidence, or the results of subsequent tests, nullify any payments previously made.
- C. OWNER May Reject Submission: OWNER may refuse to make payment of the full amount because:
1. claims have been made against the OWNER on account of CONTRACTOR's performance or furnishing of the work;
 2. liens or claims have been filed in connection with the work and remain unsatisfied more than 45 days;
 3. there are other items (e.g. pay reductions for defective work) entitling OWNER to an off-set against the amount recommended, and OWNER has given CONTRACTOR written notice stating the reasons for such action;
 4. the OWNER does not have in its possession an accurate updated construction progress schedule; or
 5. subsequently discovered evidence, or the results of subsequent tests, nullify any payments previously made to the extent necessary, in ENGINEER's opinion, to protect OWNER from loss.

14.5 SUBSTANTIAL COMPLETION

- A. CONTRACTOR to Certify Work is Substantially Complete: When CONTRACTOR considers the work (or portion thereof) ready for its intended use, CONTRACTOR shall certify in writing to ENGINEER that the work (or portion thereof) has been completed in accordance with the Contract Documents. CONTRACTOR shall include in such written certification a list of any items not finished.
- B. ENGINEER to Review CONTRACTOR's Certifications: Within five (5) days after ENGINEER receives CONTRACTOR certification and list of work items not finished, ENGINEER will issue written notice either agreeing the work is substantially complete or stating reasons why the work is not substantially complete.
- C. Final Inspection: If substantially complete, ENGINEER shall within a reasonable time, schedule a Final Inspection preparatory to writing the Final Inspection punch list.
- D. OWNER's Rights: OWNER shall have the right to exclude CONTRACTOR from the work after the date of substantial completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the Final Inspection punch list.

14.6 PARTIAL UTILIZATION

- A. In General: No occupancy or separate operation of part of the work will be accomplished prior to execution of a Change Order between OWNER and CONTRACTOR which fully describes the liability between OWNER and CONTRACTOR in respect of property insurance.

- B. Part of the Work is Substantially Complete: Any finished part of the work may be used by the OWNER prior to substantial completion of all of the work if:
1. the part of the work has specifically been identified in the Contract Documents; or
 2. the ENGINEER and the CONTRACTOR agree the finished parts constitute a completed separately functioning and usable part of the work which can be used without significantly interfering with CONTRACTOR's performance of the remainder of the work.
 3. the OWNER requests in writing that the OWNER is to be permitted to use any such part of the work, and
 4. the CONTRACTOR agrees any finished part of the work may be used by the OWNER prior to substantial completion of all of the work. CONTRACTOR will certify in writing to OWNER that said part of the work is ready for its intended use and is substantially complete.
- C. Part of the Work is Not Substantially Complete: Any unfinished part of the work may be used by the OWNER prior to substantial completion of all of the work if:
1. the OWNER has requested in writing that it is to be permitted to take over operation of any part of the work although it is not substantially complete.
 2. the CONTRACTOR and the ENGINEER have made an Inspection of that part of the work to determine its status of completion and they have prepared a list of the items remaining to be completed or corrected thereon before final payment;
 3. the CONTRACTOR does not object to OWNER taking over that part of the work which is not ready for separate operation by OWNER.
 4. the ENGINEER has prepared and delivered to the CONTRACTOR a list of items to be completed or corrected.
 5. the ENGINEER has prepared written recommendation as to the division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety maintenance, utilities, insurance, warranties and guarantees for that part of the work, which will become binding upon OWNER and CONTRACTOR at the time when OWNER takes over such operation (unless they shall have otherwise agreed in writing); and
 6. during such operation and prior to substantial completion of such part of the work, OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the list provided by the ENGINEER and to complete other related work.
- D. CONTRACTOR to Have Access: During OWNER's occupancy and operation within said part of the work, OWNER shall allow CONTRACTOR access to complete or correct items on the above-referenced list and to complete other related work.

14.7 FINAL INSPECTION

- A. When ENGINEER agrees the work (or portion of the work) is substantially complete, ENGINEER will make Final Inspection. ENGINEER will prepare a Final Inspection punch list and will deliver such list to CONTRACTOR in writing.
- B. Except for hidden or latent defects, damage due to punch list rework, fraud, gross mistakes amounting to fraud, or work required by the Contract Documents, the list shall be considered complete and final.

- C. Delivery of the Final Inspection punch list or accomplishment of the work thereon by CONTRACTOR does not relinquish any of the OWNER's rights under the CONTRACTOR's warranty and guarantee.

14.8 FINAL APPLICATION FOR PAYMENT

- A. In General: After CONTRACTOR has completed all punch list work to the satisfaction of ENGINEER and after ENGINEER has indicated that the work is acceptable (subject to the provisions of Article 14.10), CONTRACTOR may follow the procedures for progress payments and make application for final payment.
- B. Submittals Required for Final Payment: final payment (including any remaining retained money) shall not become due until CONTRACTOR submits all documentation called for in the Contract Documents and the following:
 1. an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the work for which the OWNER or the OWNER's property might be responsible or encumbered, have been paid or otherwise satisfied;
 2. a current or additional certificate evidencing that insurance required by the Contract Documents, which is to remain in force after final payment, is currently in effect and will not be canceled or allowed to expire until OWNER has been given at least 30 days prior written notice, by certified mail, return receipt requested.
 3. a written statement that the CONTRACTOR knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
 4. if previously requested by CONTRACTOR's surety, consent of surety to final payment;
 5. a certificate of occupancy if required by law, regulation or Contract Documents;
 6. all maintenance an operating instructions, schedules, guarantees, Bonds, certificates of Inspection, marked up record documents (Article 6.11) and other documents required by the Contract Documents; and
 7. if required by the OWNER, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the contract, to the extent and in such form as may be designated by the OWNER. If a subcontractor refuses to furnish a release or waiver required by the OWNER, the CONTRACTOR shall furnish a bond satisfactory to the OWNER to indemnify the OWNER against such claim. If such claims remain unsatisfied after payments are made, CONTRACTOR shall refund to the OWNER all money that the OWNER may be compelled to pay in discharging such liens or claims, including all costs and reasonable fees and charges.

14.9 FINAL PAYMENT AND ACCEPTANCE

- A. ENGINEER's Determination: ENGINEER shall review CONTRACTOR's final Application for Payment and, based upon ENGINEER's observation of the work during construction and Final Inspection, submission by CONTRACTOR of all required documentation and determination of CONTRACTOR's compliance with the

Contract Documents, either forward the application to OWNER for payment or return it to CONTRACTOR.

- B. Work Has Been Completed: When forwarding the application to OWNER, ENGINEER shall state in writing that the work is acceptable, subject to the provisions of Article 14.10.
- C. Work Has Not Been Completed: If the work has not been completed, ENGINEER will return the application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment. CONTRACTOR shall make the necessary corrections and resubmit the application. Unless indicated otherwise in the Contract Documents, and subject to provisions of Paragraph 14.4B, 40 days after presentation to ENGINEER of the application and accompanying documentation, and with ENGINEER's recommendation and notice of acceptability, the amount requested by CONTRACTOR and confirmed by ENGINEER will become due and owing by OWNER to CONTRACTOR.
- D. Delays Not CONTRACTOR's Fault: If after substantial completion of the work, final completion is materially delayed through no fault of CONTRACTOR, or by issuance of Change Orders affecting final completion, CONTRACTOR may submit final Application for Payment as stated above. Upon ENGINEER's recommendation, OWNER may, without terminating the Construction Contract, make payment of the balance due for that portion of the work fully completed and accepted. Such payment shall be deemed a final payment, except that it shall not constitute a waiver of claims.

14.10 WAIVER OF CLAIMS

- A. The making and acceptance of final payment constitutes:
 - 1. a waiver of all claims by OWNER against CONTRACTOR, except from unsettled liens, claims from defective work appearing after Final Inspection pursuant to Article 14.7 or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein. Further, however, it will not constitute a waiver by OWNER of any rights in respect of CONTRACTOR's continuing obligations under the Contract Documents or of claims which have been specifically reserved by the OWNER; and
 - 2. a waiver of all claims by CONTRACTOR under the Contract Documents except those previously made in writing and still unsettled, or remaining in dispute after processing as required by Article 9.8.

14.11 POST CONSTRUCTION CONFERENCE

- A. *Within 20 days after the CONTRACTOR has completed all Punch List work to the satisfaction of the ENGINEER and after the ENGINEER has indicated that the work is acceptable, but prior to final application for payment, the CONTRACTOR shall attend a conference with the ENGINEER and others:*
 - 1. *to discuss the project's successes and failures;*
 - 2. *to discuss project procedures;*
 - 3. *to discuss change orders or work directives from the project;*
 - 4. *to discuss retainage and final payment;*
 - 5. *to discuss procedures pertaining to the processing of payments;*
 - 6. *to discuss the submittal of the "as-builts"; and*

7. *to review or discuss other items deemed necessary by ENGINEER or CONTRACTOR.*
- B. *The conference will be held at a mutually agreed time and place attended by CONTRACTOR, its superintendent and its subcontractors as appropriate. Other attendees will be:*
 1. *ENGINEER and/or resident project representative;*
 2. *representatives of OWNER;*
 3. *governmental representatives, as appropriate;*
 4. *others as requested by CONTRACTOR, OWNER or ENGINEER.*
- C. *The purpose of the conference is to review the project's successes and shortcomings, and to discuss improvements for future projects and improved communications.*
- D. *ENGINEER will preside at the post-construction conference and will arrange for recording and distributing minutes to all persons in attendance.*

PART 15 SUSPENSION OF WORK AND TERMINATION

15.1 OWNER MAY SUSPEND WORK

- A. Notice: By written notice to the CONTRACTOR, the OWNER shall have the authority to suspend the work or any portion thereof) for a period of not more than 160 days upon the occurrence of any one or more of the following events:
 1. if the work is defective;
 2. if CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment;
 3. if CONTRACTOR fails to furnish or perform the work in such a way that the completed work will conform to the Contract Documents; or
 4. the occurrence of unsuitable weather or other such conditions ENGINEER considers unfavorable for suitable prosecution of the work.
- B. Suspension Shall Not Benefit CONTRACTOR: This right of OWNER to stop the work shall not give rise to any duty on the part of OWNER or ENGINEER to exercise this right for the benefit of CONTRACTOR or any other party.
- C. Safe, Secure and Smooth Site: If work is suspended by the OWNER, the CONTRACTOR shall do work necessary to provide a safe and secure site. If pedestrian or vehicular access is required, a smooth and unobstructed passageway shall be provided through the construction site. In the event the CONTRACTOR fails to perform this work, the OWNER may perform such work and the cost thereof will be deducted from money due or to become due the CONTRACTOR.
- D. Contract Time During Suspension: If a suspension of work is ordered by OWNER or ENGINEER because the CONTRACTOR refuses or fails to comply with the Contract Documents, the days on which the suspension order is in effect shall be considered as part of the Contract Time. Such suspension of work shall not release or relieve the CONTRACTOR from the CONTRACTOR's responsibilities set forth in the Contract Documents.
- E. Resumption of the Work: the suspended work shall be resumed on the date fixed by ENGINEER, which date shall be the earlier of 120 days after the issuance of the suspension order or the date all of the conditions cited in the order are satisfied.

- F. Work Suspension claims: Except as listed below, CONTRACTOR shall be allowed an increase in the contract price or an extension of the Contract Time, or both, if CONTRACTOR makes an approved claim as provided for in Parts 11 and 12.
1. Any work done during the suspension of the work will not be accepted and paid for unless approved in writing by the ENGINEER.
 2. There shall be no claim against or liability on the part of the OWNER and ENGINEER for failure on the part of the CONTRACTOR to comply with the Contract Documents.

15.2 OWNER MAY TERMINATE

- A. Notice, and Reason Therefore: OWNER may terminate the services of the CONTRACTOR and exclude the CONTRACTOR from the site after giving CONTRACTOR and the surety 10 days written notice. Such termination by OWNER may result from the occurrence of any one or more of the following events:
1. if a petition is filed against CONTRACTOR under any chapter of the bankruptcy code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against CONTRACTOR under any other federal or state law in effect at the time relating to bankruptcy or insolvency, and if such involuntary petition remains unsatisfied for more than 30 days.;
 2. if CONTRACTOR makes a general assignment for the benefit of creditors;
 3. if a trustee, receiver, custodian or agent of CONTRACTOR is appointed under applicable law or under contract, whose appointment or authority to take charge of property of CONTRACTOR is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of CONTRACTOR's creditors;
 4. if CONTRACTOR admits in writing an inability to pay its debts generally as they become due;
 5. if CONTRACTOR fails to perform the work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under Paragraph 2.7A.1. as revised from time to time);
 6. if CONTRACTOR disregards laws or regulations of any public body having jurisdiction;
 7. if CONTRACTOR disregards the authority of ENGINEER; or
 8. if CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents.
- B. Completion of Work by Others: OWNER may, to the extent permitted by laws and regulations, either allow the surety to complete the work or take possession of the work and of all CONTRACTOR's tools, appliances, construction equipment and machinery at the site and use the same to complete the work (without any liability to CONTRACTOR for trespass or conversion). OWNER may incorporate in the work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the work as ENGINEER may deem expedient. CONTRACTOR shall cooperate in any way necessary to allow the work to be completed.
- C. Adjustment to Cost of the Work:

1. Upon terminating the services of the CONTRACTOR, the CONTRACTOR shall not be entitled to receive any further payment until the work is finished. Final payment to CONTRACTOR or CONTRACTOR reimbursement to the OWNER shall be as follows:
 - a. if unpaid balance of the contract price exceeds the direct, indirect and consequential costs of completing the work (including, but not limited to, fees and charges of ENGINEERS, architects, and other professionals), such excess will be paid to CONTRACTOR; and
 - b. if the direct, indirect and consequential costs of completing the work exceed the unpaid balance, CONTRACTOR and the surety shall be liable to pay the OWNER for such costs exceeding the unpaid balance.
 2. Such direct, indirect and consequential costs incurred by the OWNER to complete the work will be incorporated in a Change Order. To secure such a Change Order, when exercising any rights or remedies under this paragraph ENGINEER shall not be required to obtain the lowest price for the work to be performed.
- D. Waiver of Any Default: Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of the Contract Documents shall not be construed to be a modification of the Contract Documents, unless stated to be such in a Change Order, signed by OWNER.
- E. Termination Will Not Affect Any Right or Remedies: Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. An retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.
- F. Termination for OWNER's Convenience: Upon 10 days' written notice to CONTRACTOR, OWNER may, without cause and without prejudice to any other right or remedy, elect to abandon the work and terminate the construction contract. In such case, CONTRACTOR shall be paid for all work executed and any expense sustained plus reasonable termination expenses, which will include, but not be limited to, direct, indirect and consequential costs *less OWNER's costs*. Anticipated profit upon terminated work shall not be included as part of CONTRACTOR's termination costs.

15.3 TERMINATION OF WORK BY CONTRACTOR

- A. In General: If the work is stopped for a period of more than 120 days through no act or fault of the CONTRACTOR or CONTRACTOR's agents or employees or any other persons performing portions of the work under contract with any of the above, the CONTRACTOR may terminate the Construction Contract in accordance with 15.3B herein below for any of the following reasons:
1. the OWNER has persistently failed to fulfill fundamental OWNER's obligations under the Contract Documents with respect to matters important to the progress of the work;
 2. issuance of an order of a court or other public authority having jurisdiction, except that where the CONTRACTOR has standing, the CONTRACTOR must cooperate in efforts to stay or appeal such order;

3. an act of government, such as a declaration or national emergency, making necessary materials unavailable; or
 4. unavoidable casualties or other similar causes as acts of God or of the public enemy, acts of the state or federal government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather which materially interfere with CONTRACTOR's ability to complete the work, but in every case the failure to perform must be beyond the control and without the fault or negligence of the CONTRACTOR or anyone for whom the CONTRACTOR may be liable.
- B. Notice: If one of the reasons for termination in 15.3A still exists after the CONTRACTOR gives an additional 10 days written notice to the ENGINEER, the CONTRACTOR may terminate the Construction Contract and recover from the OWNER payment for work executed and for proved loss with respect to materials, equipment, tools, construction equipment and machinery, including reasonable overhead. Anticipated profit on work not performed shall not be allowed.
- C. Continuing the Work: the provisions of 14.2A and 15.3B shall not release or relieve the CONTRACTOR from CONTRACTOR's obligation under Article 6.15 to carry on the work in accordance with the progress schedule and without delay during disputes and disagreements with the OWNER.

PART 16 DISPUTE RESOLUTION

16.1 APPEALS PROCESS

- A. Any written decision rendered by ENGINEER pursuant to Paragraph 9.8A may be appealed by CONTRACTOR. Such appeal may be taken from any such decision in accordance with any provisions provided in the Agreement or supplementary conditions concerning dispute resolution and with applicable laws and regulations.
- B. During any such appeal, OWNER may issue a work directive change requiring the CONTRACTOR to perform such disputed work and to continue the work as provided in Article 6.15.
- C. No demand for dispute resolution of any claim, dispute or other matter that is required to be referred to ENGINEER initially for decision in accordance with Paragraph 9.8A will be made until (a) the ENGINEER has rendered a written decision or (b) by the 31st day after the claim, dispute or other matter was presented to the ENGINEER.
- D. No demand for dispute resolution of any claim dispute or other matter will be made later than 30 days after the date on which ENGINEER has rendered a written decision in respect thereof in accordance with Paragraph 9.8; and the failure to demand dispute resolution within said 30 days' period will result in ENGINEER's decision being final and binding upon OWNER and CONTRACTOR.
- E. If the ENGINEER renders a decision after dispute proceedings have been initiated, such decision may be entered as evidence but will not supersede the dispute resolution proceedings, except where the decision is acceptable to the parties concerned.
- F. No demand for dispute resolution of any written decision of ENGINEER rendered in accordance with Paragraph 9.8 will be made later than 10 days after the party making

such demand has delivered written notice of intention to appeal as provided in paragraph 9.7.

- G. Notice of the demand for dispute resolution will be filed in writing with the ENGINEER. The demand for dispute resolution will be made within the 30 day or 10 day period specified in Paragraph 16.1C and 16.1F as applicable, and in all other cases within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall any such demand be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

PART 17 MISCELLANEOUS

17.1 GIVING NOTICE

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly received if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or it is received by registered or certified mail, postage prepaid or by facsimile.
- B. Notices sent as required by paragraph 17.1A shall be effective on the date on which such notice was sent.
- C. Facsimile notice shall be effective on the date of transmission provided that a confirmation establishing the successful transmission of the notice is sent by first-class mail, postage prepaid, along with a copy of the notice transmitted, no later than 24 hours after the facsimile notice is transmitted.
- D. If any notice requires a period of less than seven (7) days for response, the notice shall be sent by facsimile.
- E. Sureties shall receive notice at the business addresses shown on the Bonds.
- F. CONTRACTOR shall receive notice at the business address shown on the Agreement.

17.2 COMPUTATION OF TIME

- 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 laws or regulations, such day will be omitted from the computation.

17.3 NOTICE OF CLAIM TIME LIMITS

- A. Should OWNER or CONTRACTOR suffer injury or damage to person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this paragraph shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

17.4 CUMULATIVE REMEDIES

- A. The duties, obligations, rights and remedies imposed by these general conditions are in addition to any right and remedies available to OWNER and CONTRACTOR under available laws or regulations, special warranty or special guarantee. All representations, warranties and guarantees made in the Contract Documents will survive final payment and termination or completion of the Construction Contract.

END OF DOCUMENT

EXHIBIT A

Project Name:				Pay Request #:																
Contract #:				Billing Period:																
Contract To:																				
Address:																				
								PREVIOUS		CURRENT		TOTAL								
BID ITEM	DESCRIPTION			BID UNIT	BID QUANTITY	UNIT PRICE	CONTRACT AMOUNT	COMPLETED QUANTITIES	BILLINGS TO DATE	COMPLETED QUANTITIES	DUE THIS BILLING	COMPLETED QUANTITIES	BILLINGS TO DATE	PERCENT COMPLETE						
1	REMOVE CONCRETE FLATWORK (VARIOUS THICKNESS)			SF	300															
2	INSTALL 4" CONCRETE SIDEWALK/FLATWORK			SF	4500															
3	INSTALL 6" CONCRETE SIDEWALK/FLATWORK			SF	5500															
4	R/R 6" DRIVE APPROACH			SF	1500															
5	R/R TYPE A CURB AND GUTTER			LF	100															
6	INSTALL TYPE "P" CURB			LF	200															
7	INSTALL ADA/UDOT APPROVED 2X4 FT DIRECTIONAL DETECTABLE WARNING SURFACE (COLOR GREY)			EACH	2															
8	INSTALL ADA/UDOT APPROVED 2X4 FT RADIUS DETECTABLE WARNING SURFACE (COLOR GREY)			EACH	1															
9	SAWCUT CONCRETE (VARIOUS THICKNESS)			LF	180															
10	SAWCUT ASPHALT (VARIOUS THICKNESS)			LF	100															
11	ADDITIONAL ASPHALT PATCHING - 3" DEPTH MIN			TN	10															
12	REMOVE TREE (LESS THAN 6" DI)			EACH	1			0.00	\$0.00		\$0.00	0.00	\$ -	0%						
13	TREE ROOT CUTTING			HR	20			0.00	\$0.00		\$0.00	0.00	\$ -	0%						
14	GRANULAR BORROW			TN	30															
15	BASE COURSE			TN	30															
16	TOP SOIL			TN	30															
17	INSTALL SOD			SF	500															
18	MOBILIZATION			LUMP	1															
19	TRAFFIC CONTROL			LUMP	1			0.00	\$0.00		\$0.00	0.00	\$ -	0%						
20	SURVEY			LUMP	1			0.00	\$0.00		\$0.00	0.00	\$ -	0%						
21	QUALITY CONTROL			LUMP	1			0.00	\$0.00		\$0.00	0.00	\$ -	0%						
22	ROAD EXCAVATION (PLAN QUALITY)			CY	100			0.00	\$0.00		\$0.00	0.00	\$ -	0%						
23	RELOCATE BOULDERS (DI 3')			EACH	10			0.00	\$0.00		\$0.00	0.00	\$ -	0%						
24	REINFORCED JUNCTION BOX CAP			EACH	1															
25	REMOVE OLD STORM DITCH JUNCTION BOX (4.5'X4.5')			EACH	3			0.00	\$0.00		\$0.00	0.00	\$ -	0%						
26	STORM DRAIN 18" PIPE WORK			LF	4															

**EXHIBIT B
 OGDEN CITY ENGINEERING
 CONTRACT CHANGE ORDER REQUEST FORM**

Change Order No. 1			Contractor:			
Date:			Project:			
PO:			PA No.:			
Funding Account(s):			Contract No.:			
Item No.	Bid Item No.	Description	Est Qty	Unit	Unit Price	Amount
						\$0.00
Sub Total for Bid Items						\$0.00
Additional Items						
						\$0.00
SUB TOTAL FOR ADDITIONAL ITEMS						\$0.00
		Total Changes				\$0.00
Original Contract Price:			Percent of Contract Price Change:			#DN/0!
Net Change Increase:						0.00
Previous Change Request(s):						0.00
Contract Extensions:						0.00
Original Contract Price:						
New Contract Price:						
The contract time shall be extended by 0 Calendar days . All other terms and conditions shall remain the same.						
Change Order Justification:						
0			Ogden City Corporation, A Utah Municipal Corporation			
By: _____			By: _____			
Title/Date _____			Title/Date _____ <i>(Div Mgt/Dept Dir/CAO)</i>			
Approving Agencies:			Attest: _____			
_____			City Recorder/Date			
City Engineer/Eng Mgr/ Date			Approved as to form:			
_____			_____			
PS Director/Date			City Attorney/Date			
_____			_____			
Comptroller			Funding Source:			
_____			_____			
Mgmt Serv Dir/Date			Division Mgr			
_____			_____			

DOCUMENT 00 81 00
MODIFICATIONS TO GENERAL CONDITIONS
(Supplementary Conditions)

- A. Section 00 72 00 (General Conditions), add to paragraph 14.2.A, subparagraph 1 to read as follows:
1. Submittal of a progress payment application shall be the Contractor's certification that the Record Documents required per Section 01 78 50 have been updated to reflect the work which has occurred on the project to date and records actual construction information. Engineer may verify the accuracy of such certification prior to approval of progress payment application and within the allowable 10 days review period as indicated in Article 14.4 of Section 00 72 00 (General Conditions). Failure of the Engineer to verify certification accuracy shall not release Contractor of his obligations toward Record Drawings under the Contract.
- B. Section 00 72 00 (General Conditions), modify paragraph 14.5.A, by adding subparagraph 1 to read as follows:
1. Written certification as to substantial completion submitted by the Contractor shall also be the Contractor's certification that the Record Documents required per Section 01785 have been updated to reflect the work which has occurred on the project to date and records actual construction information relating to the work (or portion thereof). Engineer may verify the accuracy of such certification prior to his written agreement as to the work being substantially complete. Failure of the Engineer to verify certification accuracy shall not release Contractor of his obligations toward Record Drawings under the Contract. The Engineer may deny or reject the Contractor's certification as to Substantial Completion (or portion thereof) based solely upon Contractor's failure to accurately maintain the required Record Documents.
- C. Section 01 29 00 (Payment Procedures), add paragraph D to Article 1.2 to read as follows:

1.2 SUBMITTAL PROCEDURES

- D. Submit certification that the Record Documents required per Section 01 78 39 have been updated to reflect the work which has occurred on the project to date and records actual construction information.

Paragraph 13.3c.3 of the General Conditions is hereby repealed and the following is substituted therefore.

13.3 TESTS AND INSPECTIONS

- C. Costs of Inspections Assessable to:
3. The cost of all inspections tests and approvals in addition to the above which are required by the Contract Documents shall be paid by Contractor.

END OF SECTION

**SECTION 01 11 00
SUMMARY OF WORK**

PART 1 GENERAL

1.1 WORK COVERED BY CONTRACT DOCUMENTS

- A. Work of this Construction Contract comprises of New sidewalk with ADA ramps and landscape restoration work located at Monroe Blvd: S/o 32nd Street.

PART 2 PRODUCTS (Not Used)

PART 3 EXECUTION (Not Used)

END OF SECTION

SECTION 01 14 00 WORK RESTRICTIONS

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Administrative information for special construction requirements.

1.2 EXISTING CONDITIONS

1.3 SITE CONDITIONS

- A. Storage: Do not use landscaped areas for staging of materials or equipment at any time.
- B. Property owners do not want their underground irrigation systems disrupted to cause their landscaping to “yellow out”.
- C. Control all water impacting the work site during construction. Provide drainage protection of existing facilities. In the event of rain, maintain drainage lines to insure no flooding, the integrity of trenches and stability of existing excavations.

1.4 DRAINAGE

1.5 LANDSCAPING AND CONCRETE AESTHETICS

- A. Landscaping and concrete work in the various parks is aesthetic by nature and subject to continual monitoring and modification during construction. Work closely with the Engineer, when locating and constructing sidewalk through landscaped areas, modifying or adjusting concrete block work patterns and other aesthetic considerations. Design modifications throughout the construction process are expected.
- B. In steep locations, stake sidewalk grades to meet the following layout standards.
Secure Engineer's acceptance of layout before proceeding with sidewalk installation.

AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR SIDEWALK RECREATION ACCESS ROUTES			
LAYOUT STANDARDS	Level of Site Development		
	High (Easy)	Moderate (Moderate)	Minimal (Difficult)
Clear width	48 inches	36 inches	36 inches
Sustained running grade (maximum)	5 percent	5 percent	8 percent
Maximum grade	8 percent	10 percent	10 percent

for a maximum distance of	30 feet	50 feet	50 feet
Cross slope	3 percent	3 percent	3 percent
Small level changes	1/2 inch	1/2 inch	1 inch
Rest Area Interval (Maximum)	400 feet	900 feet	1200 feet
Maximum Slope Rest Areas (all directions)	2 percent	2 percent	2 percent



Not required in this Construction Contract.

1.6 LANDSCAPING AND BRICKWORK AESTHETICS

A. Landscaping and brick work is aesthetic by nature and subject to continual monitoring and modification during construction. Work closely with the Engineer, particularly when locating and constructing landscaping, modifying or adjusting brick work patterns and other aesthetic considerations. Minor design modifications throughout the construction process are expected and shall not be cause for additional time extensions or cost to the Owner.

1.7 REFUSE COLLECTION

A. Facilitate or accomplish refuse pickup. Coordinate with property owners and Owner's Public Services Sanitation Division [Phone 629-8271] as necessary.

PART 2 PRODUCTS Not Used

PART 3 EXECUTION Not Used

END OF SECTION

SECTION 01 21 00 ALLOWANCES

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Monetary amount of allowances in Contract Price.

1.2 RELATED DOCUMENTS

A. Document 00 40 00: Bid.

B. Document 00 41 00: Bid Schedule.

1.3 ALLOWANCE FOR IRRIGATION SYSTEM RESTORATION

A. Base Bid Item Number: 36.

B. Costs Included in Allowance:

1. Incidental labor and facilities.
2. Cost of product to Contractor or subcontractor, less applicable trade discounts.
3. Delivery to site.
4. Labor required under allowance, only when labor is specified to be included.
5. Applicable taxes.

PART 2 PRODUCTS Not Used

PART 3 EXECUTIONS Not Used

END OF SECTION

SECTION 01 31 13 COORDINATION

This specification changes a portion of the current 2017 Manual of Standard Specifications by the Utah Chapter of the American Public Works Association Section 01 31 13. All other provisions of the Section remain in full force and effect.

Add the following paragraph to Article 1.5

1.5 COORDINATION WITH ADJACENT PROPERTY OWNER

A. Once each week hand deliver a written **"Construction Status Update Notice"** to all residents, businesses, schools and property owners adjacent to and affected by the work. Notice shall be on Contractor's company letter head paper and be secured to door knob should occupants not be home. Obtain Engineer's review of notice prior to distribution. As a minimum the notice shall contain the following:

1. name and phone number of Contractor's representative for the project;
2. work anticipated for the next seven (7) days including work locations and work by subcontractors and utility companies;
3. rough estimate of construction schedule through end of project;
4. anticipated driveway approach closures;
5. anticipated water, sewer or power outages;
6. anticipated vehicular traffic impacts, rerouting or lane closures;
7. anticipated pedestrian impacts and sidewalk closures;
8. changes to public transportation bus routes; and
9. any other construction or work items which will impact or restrict the normal use of streets and amenities.

Failure to comply with this contract provision is considered grounds for project suspension per Article 15.1 of the General Conditions (APWA Document 00 72 00).

Add the following Article to Part 1.

1.8 PUBLIC AGENCIES PERSONNEL TO CONTACT

A. Utility Companies: Utility companies generally require a 48 hour notice (minimum) if their utility requires location, relocation or protection. Contact the following OWNERS to coordinate.

1. Questar Gas Company: phone Monroe Sidewalk. Call two (2) weeks prior to requiring Questar work on gas mains and 1 week on service lines to property owners. A Questar representative must be present at the pre-construction meeting and when working around high pressure gas mains.
2. PacifiCorp (Utah Power Company): phone (801) 629-4426.
3. US West: (Blue Stakes): phone 1 (800) 662-4111.
4. Ogden City Water Utility: phone (801) 629-8363.
5. AT&T: Repair Service Center, phone 1 (800) 222-3000.

6. Sprint Communications: phone 1 (800) 877-4646.
7. UTA: phone (801) 627-3500.
8. Utah Department of Transportation: phone (801) 620-1660.
9. Ogden City Urban Forester: Damien Reeves, (801) 629-8369, a minimum of 48 hours prior to removing trees.
10. Ogden City Public Storm Sewer Utility: Bill Simpson, (801) 629-8331.
11. Ogden City Public Sanitary Sewer Utility: Bill Simpson, (801) 629-8331.
12. Ogden City Public Safety Division: Notify 48 hours prior to street closure or water main work.
 - a. Fire: phone (801)629-8314.
 - b. Police: phone (801) 629-8221.
13. Pine View Water Users Association: phone (801) 621-6555
14. Weber Basin Water Conservancy District: phone (801) 771-1677
15. Central Weber Sewer District: phone (801) 731-3011
16. Bona Vista Water: phone (801) 621-0474
17. Lynn Irrigation: phone (801) 392-2695
18. Other Companies:

END OF SECTION

SECTION 01 32 16 PROGRESS SCHEDULE

This specification changes a portion of APWA Standard Specification Section 01 32 16. All other provisions of the Section remain in full force and effect.

Change paragraph 1.2A to read as follows.

1.2 TYPE OF SCHEDULE

- A. Critical Path Method (CPM) with activity on node (AON) required. *[This method is also known as the Precedence Diagram Method (PDM)].*

***** or *****

Change paragraph 1.2A to read as follows.

1.2 TYPE OF SCHEDULE

- A. Activity Bar Chart (Gantt) Schedule required.

END OF SECTION

SECTION 01 33 00 SUBMITTAL PROCEDURE

This specification replaces APWA Standard Specification Section 01 33 00 in its entirety.

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Submittal register requirements.
- B. Transmittal form requirements.
- C. Important submittal due dates.

1.2 SUBMITTALS

- A. Use the attached Transmittal Form (Form 01 33 50-1) when making submittals.

1.3 SUBMITTAL REGISTER PROCEDURE

- A. Use the Contract Documents to identify product data, samples and materials which require submission for information only. See Article 1.5.
- B. For submittals requiring Engineer's review or action, see Article 1.4.
- C. Determine appropriate review due dates for the submittals.
- D. Prepare register and transmit it to the Engineer.

1.4 SUBMITTALS REQUIRING REVIEW OR ACTION

- A. The following table lists submittals which require Engineer's review or action. Transmit these submittals to the Engineer, at 2549 Washington Boulevard, suite 761, Ogden, Utah 84401.

Table 1 - SUBMITTALS REQUIRING REVIEW OR ACTION

No.	Submittal	Section Reference	When Due
1	Submittal Register	01 33 50	Pre-construction conference
2	Preliminary Progress Schedule	00 72 00	Pre-construction conference
3	Shop Drawing Schedule, Schedule of Values, Mobilization Plan, Safety Plan	01 71 13	Pre-construction conference
4	Quality Control Program	01 45 00	Pre-construction conference
5	Testing Agency Name, Address, Telephone No., Manager Name, Licenses and certificates	01 45 00	Pre-construction conference
6	Permits for Work	00 80 10	Prior to Starting Work
7	Traffic Control Plan	01 55 26	72 Hours Prior to Starting Work
8	Construction Land Surveyor Name, Address, Registration No.	01 71 34	72 Hours Prior to Starting Work
9	Progress Schedule	01 32 16	Every two weeks, and with each pay application.
10	Redline Certification	01 78 39	With Each Pay Request
11	Written Permission to use Private Citizen's Property and Water	01 31 13	24 Hours Prior to Use
12	Common Fill	31 05 13	Prior to Placement
13	Aggregate Base Courses	32 11 23	10 days Prior to Placement

No.	Submittal	Section Reference	When Due
15	Passing Untreated Base Course Compaction Test Control Reports	31 23 26	Daily as UTBC is placed
17	Equipment List	00 72 00	As requested by OWNER
18	Depth of Backfill Lift if greater than specified	33 05 20 31 23 23 32 05 10	7 Days Prior to Change
19	Field Test Reports	01 45 00	End of Current Day
20	Laboratory Test Reports	01 45 00	Within 48 Hours
21	Select Fill Mix Design	32 11 23	7 Days Prior to Use
22	Asphalt Concrete Mix Design Supplier's Mix No.	32 12 03	7 Days Prior to Use
23	Asphalt Concrete Batch Delivery Ticket	32 12 05	Upon Delivery to Site
25	Portland Cement Concrete Source Data and Supplier's Mix No.	03 30 04	7 Days Prior to Use
26			
27			
28			
29	Name, Certification Number and renewal date for all ACI Certified Finishers	03 30 04	7 Days Prior to 1st Concrete Placement
30	Portland Cement Concrete Quality Control Test Reports	03 30 04 03 30 05 03 30 10	Daily as applicable
31	Portland Cement Concrete Batch Delivery Ticket	03 30 10	Upon Delivery to Site
32	Portland Cement Concrete Curing Compound Source, Type, and Data	03 39 00	7 Days Prior to 1st Concrete Placement
33	Irrigation Layout Drawings	32 84 23	Prior to Installation
35	Top Soil Supplier and Source Data	31 05 13	7 Days Prior to Placement
36	Certification of Compliance and Request for Final Inspection	01 75 50	7 Days Prior to Substantial Completion
37	Irrigation O&M Documentation	32 84 23	Prior to Final Payment
39	Evidence of Payment to Suppliers and Subcontractors	01 78 50 00 72 00	Prior to Final Payment
40	Redlines	01 78 39	Prior to Final Payment
42	O&M Manuals	01 78 23	Prior to Final Payment
43	Submittal Reports	01 45 00	Prior to Final Payment
NOTES:			
1. Section references listed in this table but not found in the Contract Documents may be found in the APWA Standard Specifications.			

1.5 SUBMITTALS FOR INFORMATION ONLY

A. Submittals identified in the Standard Specifications or in the Contract Documents, which are not identified in this section are for information only and do not require review or action by Engineer or resident project representative. Such submittals, however, will be monitored and spot checked. When spot checks indicate non-compliance, Contractor will be notified.

1.6 ENGINEER'S STAMP

A. Form of the Engineer's stamp is as follows:

<u>SUBMITTAL REVIEW</u>	
<input type="checkbox"/> NO EXCEPTIONS TAKEN	<input type="checkbox"/> REJECTED
<input type="checkbox"/> MAKE CORRECTIONS NOTED	<input type="checkbox"/> RESUBMIT
<input type="checkbox"/> SUBMIT SPECIFIED ITEM	<input type="checkbox"/> DO NOT RESUBMIT
This review is for general conformance with the design concepts of the work and general compliance with the Contract Documents and does not constitute an approval or variance. Corrections or comments, or the failure to make them, on this review does not relieve the Contractor from full contract compliance.	
The Contractor is responsible for compliance with all contract provisions, dimensions, sizes, capacities, fabrication and construction techniques, installation, coordinating work with others, and performing the work in a safe and satisfactory manner.	
Date: _____ By: _____	
OGDEN CITY ENGINEERING	

B. Meaning of Engineer's stamp:

1. No Exceptions Taken: Submittals which have been reviewed without requested correction.
2. Make Corrections Noted: Submittals which have only minor discrepancies. Resubmission will not be required unless the stamp is marked "Resubmit".
3. Submit Specified Item: Submittals which are incomplete or require more than minor corrections will be annotated to indicate necessary corrections. Resubmit the part of the submittal showing the corrections.
4. Rejected: Submittals which are fundamentally in error, cover wrong equipment or construction, or require extensive corrections.
5. Resubmit: Submittals which require resubmission. Make corrections required, note any changes by dating the revisions to correspond with the change require date, and resubmit the corrected material.
6. Do Not Resubmit: Submittals which are not necessary to resubmit.

PART 2 PRODUCTS Not Used

PART 3 EXECUTION Not Used

INSTRUCTIONS FOR SUBMITTAL REGISTER

GENERAL

1. Contractor to Complete Form: Review the Contract Documents to insure completeness. Expand general category listings. Show individual entries on this form for each item.
 - a. As an example, a general category would be "Plumbing Fixtures" which the Contractor is to breakdown into individual entries such as "Toilet P-1, Lavatory P-2, etc." Complete the Submittal Register, attach it to Form 01 33 50-1 and submit it to Engineer.
2. Resubmittals: If a submittal is returned for correction, provide a new Submittal Identification Number. Identify the number on the submittal register and resubmit the information for review. Do not amend the data already contained on the submittal register.

SUBMITTAL REGISTER

1. Scheduled Activity: If an activity on the Progress Schedule is assigned to the submittal, place the schedule activity number in the "Scheduled Activity" column.
2. Submittal Item No.: Assign to each entry on the Submittal Register a sequential number in the "Submittal Identification (Item Number)" column.
3. Review Action: The "Review Action" column identifies technical review responsibility of submittal. Review of all products and materials is the Contractor's responsibility; however, certain specified submittals will also require Engineer's review.
 - a. If "Review Action" Column is Blank: Identified submittal shall be approved by the Contractor and then submitted to the Engineer for information.
 - b. If the Engineer is identified in the "Review Action" Column: Identified submittals shall be first approved by the Contractor and then submitted to the Engineer for review.
4. Engineer Action Dates: This column is for Engineer's use to record date submittal was received and the action code assigned in the submittal review process.

END OF SECTION

SUBMITTAL REGISTER				PROJECT TITLE Monroe Sidewalk												No.				
				LOCATION																
				CONTRACTOR																
SCHEDULED ACTIVITY	SUBMITTAL ITEM No	SPECIFICATION PARAGRAPH NUMBER	DESCRIPTION OF SUBMITTAL	TYPE OF SUBMITTAL										REVIEW ACTION	CONTRACTOR NEED DATES			ENGINEER ACTION DATES		OTHER
				SAMPLES	SHOP DRAWINGS	PARTS LIST	PRODUCT DATA	DESIGN DATA	SPECIFICATIONS	CERTIFICATES	INSTRUCTIONS	TESTING RE-	O & M MANUAL	OTHER	REVIEW RE- QUIRED BY	SUBMITTAL DATE	APPROVAL NEEDED BY	MATERIAL NEEDED BY	DATE RECEIVED	

SUBMITTAL REGISTER - FORM 01 33 00-1

SECTION 01 33 50 TRANSMITTALS

This specification is an addition APWA Standard Specification, Section 01 33 50.

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Submittal register requirements.
- B. Transmittal form requirements.
- C. Important submittal due dates.

1.2 TRANSMITTALS

- A. Use the attached Transmittal Form (Form 01 33 50-1) when making submittals.

1.3 TRANSMITTAL OF SUBMITTAL REGISTER

- A. Use the Contract Documents to identify product data, samples and materials which require submission for information only. See Article 1.5.
- B. For submittals requiring Engineer's review or action, see Article 1.4.
- C. Determine appropriate review due dates for the submittals.
- D. Prepare register and transmit it to the Engineer.
- E. Transmit these submittals to the Engineer, at 2549 Washington Boulevard, suite 761, Ogden, Utah 84401.

TRANSMITTAL FORM				DATE		<input type="checkbox"/> NEW SUBMITTAL <input type="checkbox"/> RESUBMITTAL	
Section I	REQUEST FOR APPROVAL OF THE FOLLOWING ITEMS (This section will be initiated by the CONTRACTOR)						
TO			FROM			TRANSMITTAL No.	
						PREVIOUS TRANSMITTAL No.	
SPECIFICATION SECTION NUMBER (See instructions)			CONTRACT TITLE			CONTRACT No.	
SUBMITTAL ITEM No. a.	DESCRIPTION OF ITEM SUBMITTED (Type, size, model number, etc.) b.	SAMPLE OR CER- TIFICATE (See instructions) c.	NO. OF COPIES d.	CONTRACT REFERENCE DO- CUMENT		VARIATION (See instruc- tions) g.	ENGINEER REVIEW CODE (See instruc- tions) h.
				SPEC. PARA. No. e.	DRAWING SHEET No. f.		
REMARKS				I certify that the above submitted items have been reviewed in detail and are correct and conform with the contract Drawings and specifications except as otherwise noted. _____ NAME AND SIGNATURE OF CONTRACTOR			
Section II	OWNER'S ACTION This section will be completed by the ENGINEER)						
ENCLOSURES RETURNED (List by Item No.)			SIGNATURE OF REVIEWING AGENT			DATE	

FORM 0133 50-1 (Read Instructions on the next page prior to initiating this form)

INSTRUCTIONS

GENERAL

1. Form is self-transmittal. Letter of transmittal is not required.
2. Submittals requiring expeditious handling will be submitted individually on this Form.
3. Engineer's review of submittals does not release or relieve Contractor from complying with all requirements of the Contract Documents.

SECTION I

1. Transmittal No.: Number each transmittal consecutively in the space entitled "Transmittal No." This number will identify each submittal.
2. Previous Transmittal No.: Mark the box for re-submittal and insert the transmittal number of last submission as well as the new submittal number in the spaces provided. Each re-submittal will become a new transmittal.
3. Specification Section No.: Cover only one specification section with each transmittal.
4. Column "a": For each entry on this form, the "Submittal Item No." will be the same as the Submittal Item No. indicated on the Submittal Register (Form 01330-1).
5. Column "c": When a sample of material or Manufacturer's Certificate of Compliance is transmitted, indicate "Sample" or "Certificate".
6. Column "g": Contractor will place a check mark in the "Variation" column when a submittal is not in accordance with the plans and specifications - also, a written statement to that effect shall be included in the space provided for "Remarks" or on a separate page.
7. Column "h": For each item reviewed, Engineer shall assign action codes as follows:
 - A. No Exceptions Taken
 - B. Make Corrections Noted. Re-submission not required.
 - C. Submit Specified Item.
 - D. Rejected.
 - E. Resubmit
 - F. Do not resubmit. Receipt acknowledged.
 - G. Will be returned by separate correspondence.
 - H. Other (specify).

END OF SECTION

SECTION 01 45 00 QUALITY CONTROL

This specification changes a portion of Section 01 45 00. All other provisions of the Section remain in full force and effect.

Add the following Article to Part 1.

1.7 QUALITY CONTROL PROGRAM

- A. Quality Control Program: Provide a quality control program which includes procedures and organization so equipment, workmanship, fabrication, construction, operations, and inspections comply with the Contract Documents.
- B. Quality Control Program Manager Qualifications:
 - 1. Not Contractor's work or site superintendent.
 - 2. Quality control experience with projects of similar type and magnitude.
 - 3. Authorized as Contractor's representative for all quality control and quality assurance matters.
- C. Quality Control Program Manager Responsibilities:
 - 1. Manage and supervise quality control plan and quality control surveillance personnel.
 - 2. Verify that testing procedures comply with contract requirements.
 - 3. Verify that facilities and testing equipment are available and comply with testing standards.
 - 4. Check test instrument calibration data against certified standards.
 - 5. Verify that recording forms, including all the documentation requirements, have been prepared.
 - 6. Prepare copies of each test result with all necessary data recorded and with documentation and computations compiled.
 - 7. Provide more testing, if, in Engineer's opinion, work is not being adequately controlled.
 - 8. Immediately report any non-compliance of materials and mixes to Engineer and Contractor.
 - 9. When an out-of-tolerance condition exists, perform additional control testing until tolerance is attained.
 - 10. Correlate Contractor's quality assurance testing program (Section 01 43 00) with Engineer's acceptance testing program (Section 01 46 00).

END OF SECTION

SECTION 01 55 26 TRAFFIC CONTROL – B

This specification changes a portion of APWA Standard Specification Section 01 55 26. All other provisions of the Section remain in full force and effect.

Add the following articles to Part 3.

3.3 SPECIAL TRAFFIC CONTROL PROVISIONS

A. In General:

1. Provide, maintain and control all traffic information signs and traffic control devices as indicated in the current edition of the Manual of Uniform Traffic Control Devices.
2. Regulate traffic as indicated in Manual of Uniform Traffic Control Devices.
3. Sandbag all temporary traffic control signs and barricades.
4. Operate large equipment on major streets only during off-peak hours. Peak hours are normally 7:00 A.M. to 9:00 A.M. and 4:00 P.M. to 6:00 P.M.
5. Provide and maintain one 12 feet wide traffic lane for each direction of travel at all times.

B. Traffic Control Plan:

1. Submit a Traffic Control Plan which satisfies requirements in Manual of Uniform Traffic Control Devices and those of the Ogden City Transportation Engineer.

C. Traffic Control Devices:

1. Install traffic control devices before work activities start.
2. Maintain devices to ensure proper function.
3. Wash devices weekly unless conditions warrant more frequent cleaning.
4. Replace any device missing any part of the message or background.
5. Remove devices when no longer required.

D. Access:

1. Provide access to all affected properties *[except for durations of less than 24 hours]*. In all cases:
 - a. Provide alternate access whenever normal access is blocked and an alternate access method is possible.
 - b. Notify property owners 48 hours in advance of change or loss of access and the anticipated duration.
2. Keep open for travel at all times each section of roadway or sidewalk being worked on or provide alternate vehicular and pedestrian passage ways. Follow provisions of the current Manual of Uniform Traffic Control Devices (MUTCD) for walkway signing and barricading.
3. Construct temporary ramps over concrete curb, gutter and sidewalk and other construction to each business entrance as required for uninterrupted access.

E. Parking Restrictions:

1. Post "No Parking" signs every 50 feet 24 hours in advance of need.

3.4 LOST OR DAMAGED TRAFFIC FIXTURES

- A. Replace lost or damaged traffic regulation signs and traffic information signs at no additional cost to Owner.

END OF SECTION

SECTION 01 78 50 CLOSEOUT PROCEDURES

This specification changes a portion of APWA Standard Specification Section 01 78 50. All other provisions of the Section remain in full force and effect.

Add paragraph 1.4E to read as follows.

1.5 CLOSEOUT SUBMITTALS

- E. Form 01 78 50-1: Certificate of Compliance and request for final inspection. (See copy on the page following this one).

Add the following article to Part 1.

1.6 CLOSEOUT SCHEDULE

- A. As defined in APWA Standard Plan No. 110.

END OF SECTION

**CONTRACTOR'S
CERTIFICATION OF COMPLIANCE**

(and request for Final Inspection)

Certification of Compliance and Punch List of Uncompleted items must be submitted with final request for payment.

DATE _____

PROJECT NAME AND NUMBER

PORTION OF WORK COMPLETE

All of the work as per the contract has been completed and approved.

CERTIFICATION

I certify that I, _____ (name) am
an authorized official of _____ (company)
working in the capacity of _____ and have
been duly authorized by said company to make the following statements.

1. As the CONTRACTOR's representative, I do hereby certify by personal knowledge that all Work or portion of the Work described above has been performed in every particular in accordance with and conformance to the Contract Documents and that the Work or portion of the Work is ready for Final Inspection.
2. It is understood that neither the determination of the ENGINEER that the Work is Substantially Complete, nor the acceptance thereof, shall operate to bar claims against the CONTRACTOR for non-compliance with the Contract Documents.
3. As the CONTRACTOR's representative, I do hereby certify by personal knowledge that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the OWNER or the OWNER's property might be responsible or encumbered, have been paid or otherwise satisfied.

I hereby request the ENGINEER accept the Work as being Substantially Complete and schedule the Final Inspection.

Signature

PUNCH LIST FOR PROJECT COMPLETION/APPROVAL

This list contains both generic and project-specific items that will need to be completed before final payment can be made on this project. These items will be discussed at the post-construction meeting.

1. Final Inspection was completed.
2. All items as bid have been completed.
3. Example (The change order, was completed and approved to replace the curb and inlet box).
4. _____
5. _____
6. _____
7. _____

This project has been completed to the satisfaction of the Project Inspector and the Project Engineer/Manager and final payment to contractor is requested.

Signature of Engineer

Date

SECTION 03 30 10 CONCRETE PLACEMENT (COLD WEATHER PROCEDURES)

Add the following items to Section 03 30 10 when the Definition of Cold Weather is met.

Definition of Cold Weather: Cold weather is defined as a period when for more than three (3) successive days the mean daily temperature falls below 40° F or any day when the temperature is expected to fall or falls below freezing.

PART 1 GENERAL

1.2 REFERENCES

A. APWA:

1. Section 03 30 04: Cast-In-Place Concrete
2. Section 03 39 00: Concrete Curing
3. Section 03 30 10: Concrete Placement

1.3 SUBMITTALS

- E. Not less than 30 days prior to expected placement of concrete under cold weather conditions, a complete procedure shall be submitted for review covering all aspects of protection of concrete and its ingredients from the detrimental effects of cold weather. Concrete placement during cold weather shall not commence prior to return of the procedure marked "Reviewed".

1.4 QUALITY ASSURANCE

- E. The concrete temperature, during placement in cold weather, shall not be less than 50° F. Temperature measurements of the concrete as delivered to the job site shall confirm this requirement.

PART 2 PRODUCTS

2.1 MATERIALS

- A. Water and aggregates may be preheated for cold weather placement; however, their temperature shall not exceed 150° F. All methods and equipment for heating of water and aggregate shall be subject to the approval of the Engineer and shall conform to ACI 306.

PART 3 EXECUTION

3.2 PREPARATION

- F. No concrete shall be placed on frozen ground.
- G. The ground, against which concrete is to be poured, must be protected against freezing after its preparation, or the concrete placement shall be delayed until the ground has fully thawed out.

- H. When temperatures are expected to be below 32° F. the night before the concrete is placed, then all reinforcing steel, forms and the ground shall be preheated, for a minimum of 12 hours, under a minimum temperature of 50° F.
- I. When temperatures are expected to be below 32° F any time before the concrete has reached a strength of 1000 psi, the concrete must be adequately protected against frost damage by heating blankets, straw or insulation materials for a minimum of 7 days or until at least 1000 psi concrete strength has been reached. The concrete temperature shall at no time fall below 40° F based on recording temperature monitors placed at a maximum of 50 feet on centers, each way, and around the circumference of the floor slab, and retaining wall. Contractor shall provide heat as required to keep the concrete temperature as specified throughout the entire curing period of 7 days.
- J. Weather prediction made by the nearest NOAA station, and corrected for the local elevation and environmental conditions, may be used to determine whether cold weather protection shall be required. Thermometers will be used by the Engineer and these readings shall determine whether cold weather protection shall be required and whether cold weather protection is adequate.
- K. When combustion type heaters are used to maintain concrete temperatures within an enclosure, the exhaust gases shall be vented from the heater to the outside atmosphere so that the concrete is not exposed to the products of combustion.

END OF SECTION