



## INVITATION FOR BID

### Pavement Marking Project

**Town of Mead IFB#:** 2024-006 – Pavement Marking Project

**Issued:** Friday, April 19, 2024

**Deadline for Bids:** Thursday, May 9, 2024, 2:00 p.m. (MDT)

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Pavement Management Program Manager  
[iwindhorst@townofmead.org](mailto:iwindhorst@townofmead.org)

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**Reference Documents** - Town of Mead Design Standards and Construction Specifications

<https://www.townofmead.org/engineering>

**SECTION 00100  
INVITATION TO BID**

**1.0 RECEIPT OF BIDS**

Bids must be received electronically in the E-Purchasing System no later than **May 9, 2024** before 2:00 p.m. MDT. Bids will be time-stamped by the Rocky Mountain E-Purchasing System upon receipt.

The Town of Mead, Colorado will only accept bids submitted in the Rocky Mountain E-Purchasing System and will not accept hardcopy bids, or bids submitted by any other means. The Town of Mead reserves the right to reject any and all bids. The Town also reserve the option to enter into additional construction agreements for work to be performed in each calendar year 2025, 2026, 2027 and 2028 (each, an "Extension Agreement"). Any Extension Agreement shall be subject to substantially the same terms and conditions contained in the Construction Agreement and with Extension Agreement pricing to be determined substantially in accordance with the provisions of Section 3.00 and Section 5.00(c) of the Construction Agreement. Exercise of any renewal/extension option shall be at the sole discretion of the Town and shall be conditioned, at a minimum, on the Contractor's satisfactory performance of the work.

If you have questions or need assistance, contact BidNet support at 800-835-4603. After uploading your bid documents, you must click the SUBMIT button. The Town will not accept uploads that are "saved" but not "submitted". To verify that your bid was submitted successfully, you may contact BidNet Support or verify via the Bid Management tab in your account that the documents are not in "draft" status.

No bids will be considered which have not been received by the deadline set forth above, as determined by the Town of Mead. The Town is not responsible for delays occasioned by the U.S. Postal Service, the Town's internal mail or e-mail delivery system, express carrier, or any other means of delivery employed by the Service Provider.

The Town reserves the right to reject any and all proposals and to waive any irregularities or informalities. All Bids shall remain subject to acceptance for 30 days after the time set for opening Bids.

*The Town of Mead is committed to providing an equal opportunity for citizens and does not discriminate on the basis of disability, race, color, national origin, religion, sexual orientation, age or gender. The Town will make reasonable accommodations for citizens in accordance with the Americans with Disabilities Act.*

**2.0 DESCRIPTION OF WORK**

The Town of Mead is soliciting bids from qualified contractors to provide pavement markings and striping on Town streets and properties. This work consists of all labor, equipment, material, supplies, environmental protection, traffic control, sweeping and incidentals necessary to complete the work.

This is a unit price project. Each line item cost shall contain all associated costs to complete that

item, including all necessary labor, supervision, equipment, tools, materials, transportation, haul, mobilization, and environmental or fuel/surcharge fees necessary to complete the work in accordance with the Project Construction Documents and the current Town of Mead Design Standards and Construction Specifications.

Specific locations have been identified for completion in 2024 as shown on the maps and quantity estimates provided. [Mead \(arcgis.com\)](https://arcgis.com)

### 3.0 DOCUMENT INSPECTION AND PROCUREMENT

The Bidding Documents may be inspected at the following locations:

Bidding documents will be available via the Rocky Mountain E-Purchasing System at: [www.bidnetdirect.com/colorado](http://www.bidnetdirect.com/colorado)

Documents will also be posted on the Town of Mead website: [www.townofmead.org/rfps](http://www.townofmead.org/rfps)

### 4.0 BONDS

No Bid will be received unless accompanied by a cashier's, certified or bank check or a Bid Bond equal to at least ten percent of the maximum Bid, payable to the OWNER as a guarantee that after a Bid is accepted, Bidder will execute and file the Agreement and 100% Performance and Payment Bonds within ten days after the Notice of Award.

### 6.0 BID SCHEDULE

|                                |                              |
|--------------------------------|------------------------------|
| <b>Bid Released</b>            | <b>April 19, 2024</b>        |
| <b>Final Day for Questions</b> | <b>May 3, 2024</b>           |
| <b>Final Addendum Issued</b>   | <b>May 7, 2024</b>           |
| <b>Bid Due</b>                 | <b>May 9, 2024 2:00 p.m.</b> |

Questions will be accepted via email to Manny Windhorst, Pavement Management Program Manager, [iwindhorst@townofmead.org](mailto:iwindhorst@townofmead.org) until close of business on **May 3, 2024**. Any addendum information will be issued by close of business on **May 7, 2024**.

The Town of Mead reserves the right to reject any or all Bids, to waive any technicality, and to accept any Bid which it deems advantageous. All Bids shall remain subject to acceptance for 30 days after the time set for opening Bids.

**END OF SECTION**

**SECTION 00200  
INSTRUCTIONS TO BIDDERS**

**ARTICLE 1 – DEFINED TERMS**

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions.

**ARTICLE 2 – COPIES OF BIDDING DOCUMENTS**

- 2.01 Complete sets of the Bidding Documents can be obtained by downloading the documents as shown in the Invitation to Bid.
- 2.02 Complete sets of Bidding Documents shall be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.03 Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license for any other use.

**ARTICLE 3 – QUALIFICATIONS OF BIDDERS**

- 3.01 To demonstrate Bidder’s qualifications to perform the Work, within the timeframe stipulated in the Agreement, Bidder shall submit written evidence such as work previously completed by the Bidder and whether the Bidder (a) maintains a permanent place of business, (b) has adequate experience and equipment to do the Work properly and expeditiously, (c) has the financial resources to meet the all obligations incident to the Work, and (d) has appropriate technical experience.
- A. Each bid must contain evidence of Bidder’s qualifications to do business in the State of Colorado, where the Project is located, or submit evidence of such qualifications prior to award of the contract.
  - B. Bidder must be prepared to submit within five days of Engineer’s request written evidence of Bidder’s qualifications to perform the Work. The Engineer may require the apparent low responsive bid and second low responsive bid General Contractors to submit a Statement of Qualifications, in accordance with Bid Form, Article 1.08.
- 3.02 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder’s representations and certifications.

**ARTICLE 4 – EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE**

- 4.01 Subsurface and Physical Conditions
- A. There is no subsurface investigation report for this project.
- 4.02 Underground Facilities

- A. Information and data shown or indicated in the Bidding Documents with respect to existing 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, including Owner, or others.

4.03 Hazardous Environmental Condition

- A. No known Hazardous Environmental Condition have been identified at this Site.

4.04 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions, and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated subsurface or physical conditions appear in article 5 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work, appear in Paragraph 5.06 of the General Conditions.

4.05 On request, Owner will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates.

4.06 It is the responsibility of each Bidder before submitting a Bid to:

- A. Examine and carefully study the Bidding Documents, and the other related data identified in the Bidding Documents.
- B. Visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Carefully study all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) that have been identified in Paragraph 5.03 of the Supplementary Conditions as containing reliable "technical data".
- E. Consider the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2)

the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs;

- F. Agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
  - G. Become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
  - H. Promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder; and
  - I. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.
- 4.07 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

#### **ARTICLE 5 - PRE-BID CONFERENCE**

- 5.01 There is no pre-bid conference for this project. Interested bidders are encouraged to visit the project sites to become more familiar with the project and scope.
- 5.02 Engineer will transmit to all prospective Bidders of record such Addenda as Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

#### **ARTICLE 6 - SITE AND OTHER AREAS**

- 6.01 The Sites are identified in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor.

## ARTICLE 7 – INTERPRETATIONS AND ADDENDA

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to the Town of Mead, in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda. The last date for questions to be answered by the Engineer is 5:00 p.m., **May 3, 2024**. Any addendum information will be issued via Rocky Mountain E-Purchasing System by close of business on **May 7, 2024**. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 7.02 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Owner or Engineer.

## ARTICLE 8 – BID SECURITY

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of ten percent of Bidder's maximum Bid price and in the form of a certified check, bank money order, or a Bid bond (on the form attached) issued by a surety meeting the requirements of Paragraphs 6.01 of the General Conditions.
- 8.02 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited. Such forfeiture shall be Owner's exclusive remedy if Bidder defaults. The Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of seven days after the Effective Date of the Agreement or 60 days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.
- 8.03 Bid security of other Bidders whom Owner believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

## ARTICLE 9 – CONTRACT TIMES

- 9.01 The dates by which the Work is to be substantially completed and ready for final payment are set forth in the Agreement.

## ARTICLE 10 – LIQUIDATED DAMAGES

- 10.01 Provisions for liquidated damages, if any, are set forth in the Agreement.

## ARTICLE 11 – SUBSTITUTE AND “OR-EQUAL” ITEMS

- 11.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration of possible substitute or “or-



accepted substitutions.” Whenever it is specified or described in the Bidding Documents that a substitute or “accepted substitution” of material or equipment may be furnished or used by Contractor if acceptable to Engineer, application for such acceptance will not be considered by Engineer until after the Effective Date of the Agreement.

## **ARTICLE 12 – SUBCONTRACTORS, SUPPLIERS AND OTHERS**

- 12.01 The Bid Form requires the identity of Subcontractors, Suppliers, individuals, or entities to be submitted with the Bid Documents. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute, in which case apparent Successful Bidder shall submit an acceptable substitute, Bidder’s Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.
- 12.02 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 7.06 of the General Conditions.
- 12.03 Contractor shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom Contractor has reasonable objection.

## **ARTICLE 13 – PREPARATION OF BID**

- 13.01 The Bid Form is included with the Project Manual.
- 13.02 All blanks on the Bid Form shall be completed in ink and the Bid Form signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form.
- 13.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown.
- 13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown.
- 13.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.

- 13.06 A Bid by an individual shall show the Bidder's name and official address.
- 13.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.
- 13.08 All names shall be printed in ink below the signatures.
- 13.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.
- 13.10 Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.
- 13.11 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located, or Bidder shall covenant in writing to obtain such authority and qualification prior to award of the Contract and attach such covenant to the Bid. Bidder's state contractor license number, if any, shall also be shown on the Bid Form.

#### **ARTICLE 14 - BASIS OF BID; COMPARISON OF BIDS**

##### 14.01 Line Item

- A. Bids must be priced as set forth in the Bid Schedule. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

#### **ARTICLE 15 - SUBMITTAL OF BID**

- 15.01 With each copy of the Project Manual, an electronic copy of the Bid Form is included. The Bid Form shall be completed and, with the Bid security, shall be submitted as described below.
- 15.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Invitation to Bid and shall include the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security.

#### **ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BID**

- 16.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids.
- 16.02 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may

withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, that Bidder will be disqualified from further bidding on the Work.

#### **ARTICLE 17 – OPENING OF BIDS**

17.01 Bids will be opened at the time and place indicated in the Invitation to Bid. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

#### **ARTICLE 18 – BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

18.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

#### **ARTICLE 19 – EVALUATION OF BIDS AND AWARD OF CONTRACT**

19.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible. Owner may also reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder. Owner also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.

19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

19.03 In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements and other data, as may be requested in the Bid Form or prior to the Notice of Award.

19.04 In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.

19.05 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work in accordance with the Contract Documents.

19.06 If the Contract is to be awarded, Owner will award the Contract to the Bidder whose Bid is in the best interests of the Project.

## **ARTICLE 20 – CONTRACT SECURITY AND INSURANCE**

20.01 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner’s requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it shall be accompanied by such bonds.

## **ARTICLE 21 – SIGNING OF AGREEMENT**

21.01 When Owner issues a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement along with the other Contract Documents which are identified in the Agreement as attached thereto. Within 15 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner. Within ten days thereafter, Owner shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification.

## **ARTICLE 22 – SALES AND USE TAXES**

22.01 Owner is exempt from Colorado state sales and use taxes on materials and equipment to be incorporated in the Work. Said taxes shall not be included in the Bid. Refer to Paragraph 6.10 of the Supplementary Conditions for additional information.

## **ARTICLE 23 – RETAINAGE**

23.01 Requirements for retainage are addressed in the Agreement.

## **ARTICLE 24 – CONTRACTS TO BE ASSIGNED**

24.01 There are no contracts to be assigned to contractor as part of this project.

**END OF SECTION**

**SECTION 00310  
BID FORM**

**Project:** Town of Mead – Pavement Marking Project

**Address:** Town of Mead  
Attn: Manny Windhorst, Program Manager  
441 Third Street  
Mead, CO 80542

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices within this Bid and in accordance with the other terms and conditions of the Bidding Documents.
- 1.02 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.
- 1.03 In submitting this Bid, Bidder represents that:
  - A. Bidder has examined and carefully studied the Bidding Documents, other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged:

| <u>Addendum No.</u> | <u>Bidders Signature</u> | <u>Date Acknowledged</u> |
|---------------------|--------------------------|--------------------------|
|                     |                          |                          |
|                     |                          |                          |
|                     |                          |                          |
|                     |                          |                          |

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

Bidder has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) that have been identified in SC-4.02 as containing reliable "technical data." Bidder has considered the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder,

including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs.

- D. Based on the information and observations referred to in Paragraph C above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- E. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- F. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
  - 1. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

1.04 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, 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 individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph:
  - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
  - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
  - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

1.05 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

Base Bid Proposal

The work will include all necessary labor, supervision, equipment, tools, and materials to complete the work in accordance with the Project Construction Documents and the current Town of Mead Design Standards and Specifications.

| Item No.          | Description                               | Unit | Contract Quantity | Unit Price | Total Cost |
|-------------------|---|------|-------------------|------------|------------|
| 202.01            | Removal of Pavement Striping and Markings | SF   | 250               | \$         | \$         |
| 626.01            | Mobilization                              | LS   | 1                 | \$         | \$         |
| 627.01            | Parking lot Striper                       | LF   | 1700              | \$         | \$         |
| 627.02            | Pavement Marking Paint Long Line          | Gal  | 966               | \$         | \$         |
| 627.03            | Pavement Marking Epoxy Long Line          | Gal  | 310               | \$         | \$         |
| 627.04            | Pavement Marking Paint Crosswalk/Stop Bar | SF   | 798               | \$         | \$         |
| 627.05            | Pavement Marking Paint Word/Symbol        | SF   | 850               | \$         | \$         |
| 627.06            | Preformed Thermoplastic Pavement Markings | SF   | 450               | \$         | \$         |
| <b>TOTAL COST</b> |   |      |                   |            | <b>\$</b>  |

\_\_\_\_\_ Dollars,  
and \_\_\_\_\_ Cents.

BIDDER acknowledges that the Owner has the right to delete items in the Bid or change quantities at his sole discretion without affecting the Agreement or prices of any item so long as the deletion or change does not exceed twenty-five percent (25%) of the total Contract Amount.

The undersigned Bidder agrees to furnish any and all required Bonds in the form required by the Town and to enter into a contract within the time specified in the Instructions to Bidders and further agrees to complete all Work covered by the Bid, in accordance with specified requirements, within the time specified in the Agreement. Bidder accepts the provisions of the Agreement as to liquidated damages.

In submitting this Bid it is understood that the right is reserved by Owner to reject any and all bids, and it is understood that this Bid may not be withdrawn during a period of 60 days after the scheduled time for the receipt of bids.

1.06 Construction Schedule

- A. Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.03 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

1.07 The following documents are submitted with and made a condition of this Bid:

- A. Required Bid security;
- B. List of Proposed Subcontractors
- C. List of Proposed Suppliers
- D. Evidence of authority to do business in the state Colorado; or a written covenant to obtain such license within the time for acceptance of Bids;

1.08 The Engineer may require the apparent low responsive bid and second low responsive bid General Contractors to submit the following Statement of Qualifications after the bid opening:

A. General Information

- 1. Please provide official firm name, license, contact person for bidding, title, phone number, e-mail address, and mailing address. Provide a list of current projects under construction in detail, including Owner's name and contact information, Engineer's name and contact information, contract price, percent complete, and brief description of work.

B. Project Experience

- 1. Provide brief summaries of a minimum of three (3) comparable projects in which your firm served as General Contractor in last three (3) years. Include the following information with each project summary:
  - a. Owner and Engineer contact information
  - b. References and contact information
  - c. Project contract price and final construction cost
  - d. Construction dates

C. Experience of key personnel to be assigned to this project.

- 1. For each key person identified, list at least two comparable projects in which they have played a primary role. For other projects provide:
  - a. Description of project
  - b. Role of the person
  - c. Project's original contracted construction cost and final construction cost
  - d. Construction dates
  - e. Project Owner
  - f. Reference information (two names with telephone numbers for each project)



D. References

1. Provide name, address, and phone number of the General Contractor's banking reference
2. Provide name, address, and phone number of the General Contractor's insurance agent(s)

SIGNATURE OF BIDDER:

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

If an Individual: \_\_\_\_\_,

Doing business as: \_\_\_\_\_

If a Partnership: \_\_\_\_\_

By: \_\_\_\_\_, partner

If a Corporation: \_\_\_\_\_ (a \_\_\_\_\_ Corporation)

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

(SEAL & TITLE \_\_\_\_\_ ATTEST)

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

\_\_\_\_\_

TELEPHONE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

**END OF SECTION**

**SECTION 00410  
BID BOND**

**PROJECT:** Town of Mead - Pavement Marking Project  
**IFB 2024-006**

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, \_\_\_\_\_ hereinafter called the "Principal", is submitting a proposal hereinafter the "Proposal" for the above-described project, to the Town of Mead, Colorado a municipal corporation hereinafter called "Obligee".

WHEREAS, the Advertisement for Bids has required as a condition of receiving the Proposals that the Principal submit with the Proposal GUARANTY in an amount not less than ten per cent (10%) of the Proposal, which sum it is specifically agreed is to be forfeited as Liquidated Damages in the event that the Principal defaults in his obligation as hereinafter specified, and, in response to such Requirement, this Bid Bond is made, executed and delivered.

NOW THEREFORE, the Principal and [insert name of Surety] \_\_\_\_\_ a corporation of the State of \_\_\_\_\_, duly authorized to transact business in Colorado, as Surety, are held firmly bound unto the Obligee, in the sum of ten per cent (10%) of the Principal's total bid price, lawful money of the United States for the payment of which sum, will and truly to be made to the Obligee, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

FURTHER THAT, a condition of the obligation that the Principal shall maintain his Proposal in full force and effect for sixty (60) days after the opening of the proposals for the project, or, if the Principal's Proposal is accepted, the Principal shall, within the prescribed time, execute the required Agreement, furnish the required Performance Bond, Labor and Material Payment Bond, Insurance Policy, and Certificates of Insurance for the initial term of the Agreement, then this obligation shall be null and void, otherwise it shall remain in full force and effect, and subject to forfeiture upon demand as Liquidated Damages.

IN WITNESS WHEREOF said Principal and Surety have executed this Bond, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

|                    |   |
|--------------------|---|
| (Corporate Seal)   | THE PRINCIPAL<br><br>_____<br><br>_____ |
| ATTEST:            | Address                                 |
| _____<br>Secretary | BY _____                                |

**SIGNATURES** If the "Principal" is doing business as a Corporation, the Bid Bond shall be signed by an officer, i.e., President, or Vice President. The signature of the officer shall be attested to by the Secretary and properly sealed.

If the "Principal" is an individual or a partnership, the Bid Bond shall so indicate and be properly signed.

(Corporate Seal)

THE SURETY

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

\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
Attorney-in-Fact

THIS BOND MUST BE ACCOMPANIED BY POWER OF ATTORNEY, EFFECTIVELY DATED. FAILURE TO PROVIDE A PROPERLY EXECUTED BID BOND WITH A PROPERLY EXECUTED POWER OF ATTORNEY WILL RESULT IN THE BIDDER'S PROPOSAL BEING DEEMED NON-RESPONSIVE.

**END OF SECTION**

**SECTION 00501**  
**TOWN OF MEAD, COLORADO**  
**CONSTRUCTION AGREEMENT**  
**Project Number: IFB 2024-006, Pavement Marking Project (“Project”)**

This CONSTRUCTION AGREEMENT (“Agreement”) is made and entered into by and between the TOWN OF MEAD, COLORADO, a municipal corporation of the State of Colorado, with offices at 441 Third Street, Mead, Colorado 80542 (the “Town” or “Owner”), and \_\_\_\_\_, whose address is \_\_\_\_\_ (the “Contractor”).

**RECITALS**

WHEREAS, the Town desires to obtain all necessary components to complete the scope of work for the Project; and

WHEREAS, the Town received bids or proposals for the Project, including one from the Contractor (“Bid Proposal”); and

WHEREAS, the Town has reviewed the Bid Proposal from the Contractor for the completion of the Project, and the Town finds said Bid Proposal acceptable; and

WHEREAS, the Town desires to contract with the Contractor subject to the terms of this Agreement and all other Contract Documents.

NOW, THEREFORE, for the consideration herein expressed, it is agreed as follows by and between the Town and the Contractor that the Contractor shall perform the following:

**THE PARTIES AGREE AS FOLLOWS:**

**1.00 SCOPE OF WORK:** The Contractor will furnish all tools, equipment, machinery, materials, supplies, superintendence, insurance, transportation, other construction accessories, and services specified or required to be incorporated in and form a permanent part of the construction and completion of the work proposed to be done under this Agreement (“Work” or “Scope of Work”). In addition, the Contractor shall provide and perform all necessary labor in a first-class and workmanlike manner and in accordance with the conditions and prices stated in the Bid Proposal and the requirements, stipulations, provisions, and conditions of the Contract Documents. The Contractor shall further perform, execute, construct, and complete all things mentioned to be done by the Contractor and all work covered by the Owner’s official award of this contract to the Contractor, such award being based on the acceptance by the Owner of the Contractor’s bid, or part thereof.

**2.00 THE CONTRACT DOCUMENTS:** This Agreement incorporates all the Contract Documents, which together represent the entire and integrated agreement between the parties hereto and supersede prior negotiations, written or oral representations, and agreements. The Contract Documents consist of this Construction Agreement, which Agreement also incorporates by this reference all of the instruments set forth in the Contract Documents as fully as if they were set forth in this Agreement in full. The Contract Documents consist of, without limitation, the following documents:

1. Invitation for Bid or Request for Proposals and Instructions to Bidders
2. Contractor’s Bid Form (with Unit Pricing as indicated), which is **Exhibit A** to this Agreement
3. This Construction Agreement and any addendums, exhibits or attachments to this Agreement
4. Performance and Payment Bond
5. Bid Proposal
6. Notice of Award
7. Notice to Proceed

8. Bid Bond (Minimum 10% equivalent of the Bid Proposal price or as otherwise set forth in the Bid Bond form provided as part of the Bid Pack)

9. General Conditions

10. The following documents if the box is checked:

- Special Provisions
- Design Documents, including all Drawings and Plans
- Project Specifications
- Addendums to Specifications and Standards
- The following manual of construction design standards and specifications:

- Town of Mead “Design Standards and Construction Specifications”
- Colorado Department of Transportation “Standard Specifications for Road and Bridge Construction”

Change Orders, Field Orders or other similar revisions properly authorized after the execution of this Agreement

Others: \_\_\_\_\_

**3.00 TIME AND COMMENCEMENT OF COMPLETION: RENEWAL OPTION:** This Agreement shall commence as of the date the Agreement is fully executed by both parties and shall continue through December 31, 2024, or until the Scope of Work is completed. Consistent with the IFB, the Town reserves the right to enter into additional construction agreements for work to be performed in each of calendar year 2025, 2026, 2027 and 2028 (each, an "Extension Agreement"). Any Extension Agreement shall be subject to substantially the same terms and conditions contained herein and at the renewal prices indicated in Section 5.00(c) of this Agreement below. Exercise of any renewal option shall be at the Town’s sole discretion and shall be conditioned, at a minimum, on the Contractor's satisfactory performance of the terms and conditions of this Agreement, the appropriation of funds by the Town for any Extension Agreement, and approval by the Town's Board of Trustees (if necessary). The Town, if it desires to exercise its renewal option for 2025, 2026, 2027 or 2028, will provide written notice to the Contractor no later than sixty (60) days prior to the date on which the Town desires to obtain final proposed pricing for the Extension Agreement.

**4.00 LIQUIDATED DAMAGES:** All time limits stated in this Agreement and the Contract Documents are of the essence of the Agreement. The Town and Contractor recognize the completion of the work as shown in the contractual time frame, or as extended, is important to the ongoing operations of the Town and its citizens. They also recognize that delays include expenses to the Town for extended manpower commitments, outside consultant commitments, and potentially other legal fees to extend the project beyond the expected time period.

If this box is checked, in lieu of requiring any such proof and backup for such expenses, Contractor agrees that liquidated damages (not penalties) may be assessed by the Owner in the sum of **\$900.00 per day** for each day after the contract time frame expires.

If this box is checked, in addition to or in lieu of the daily damages (if checked above), Contractor agrees that lump sum liquidated damages (not penalties) may be assessed by the Town in a lump sum payment of \$ \_\_\_\_\_ .00 if the work is not completed by \_\_\_\_\_, 20\_\_.

**5.00 CONTRACT SUM AND PAYMENT:** The Owner shall pay to the Contractor for performance of the Work encompassed by this Agreement, and the Contractor will accept as full compensation therefore the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_ .00) subject to adjustment as provided by the Contract Documents (“Contract Price”). The Town has appropriated sufficient funds for completion of this Work.

- a. Monthly, partial, progress payments shall be made by the Town to the Contractor for the percentage of the Work completed, subject to inspection by Town staff to verify percentage of completion. The Town alone shall determine when work has been completed and progress payments shall not constitute a waiver of the right of the Town to require the fulfillment of all terms of this Agreement and the delivery of all improvements embraced in this Agreement in a complete and satisfactory manner to the Town in all details. The Town, before making any payment, may require the Contractor to furnish releases or receipts from any or all persons performing work under this Agreement and/or supplying material or services to the Contractor, or any subcontractor if this is deemed necessary to protect the Town's interest. The Town, however, may in its discretion make payment in part or full to the Contractor without requiring the furnishing of such releases or receipts.
- b. By the 1st day of each month, Contractor shall submit to the Town for review and approval, an application for payment fully completed and signed by Contractor covering the work completed through the last day of the prior month and accompanied by such supporting documentation as is required by these Contract Documents, including without limitation, time sheets, invoices, receipts, bills of lading, and all other documents the Town may require. Materials on hand but not complete in place may or may not be included for payment at the discretion of the Town. Each subsequent application for payment shall include an affidavit of Contractor providing that all previous progress payments received on account of the work have been applied to discharge in full all of Contractor's obligations reflected in prior applications for payment. Notwithstanding the progress payments, it is the intent and purpose of the Town to withhold at least five percent (5%) of payments to Contractor for any contract exceeding One Hundred Fifty Thousand Dollars (\$150,000.00) in accordance with Article 91, Title 24, C.R.S.
- c. Extension Agreement pricing: The Contractor may propose price increases to be applicable for any Extension Agreement term by written notice to the Town. Price increases are to be on a pass-through basis only and must not produce a higher profit margin for Contractor than that established by this Agreement. Requests must include supporting documentation such as price increases at the manufacturer's level and/or other documentation of cost increases. Consideration of price increases will be at the sole discretion of the Town. If a price increase is approved in part or in full, the resulting new pricing will be implemented through approval of an Extension Agreement. The Town may approve an increase in unit prices on Contractor's pricing pages consistent with the amount requested in the Contractor's written justification in the amount not to exceed the increase in the Colorado Construction Cost (CCI) Index, Colorado area, published by the Colorado Department of Transportation during the proceeding one year term. Nothing in this Agreement shall obligate the Town to approve any Extension Agreement. Exercise of any renewal option shall be at the Town's sole discretion, consistent with Section 3.00 above.

**6.00 ACCEPTANCE AND FINAL PAYMENT:** Final payment may be requested by the Contractor upon completion and acceptance, by the Town, of all work as set forth in the Contract Documents. The total amount of final payment shall consist of the Contract Price, as adjusted in accordance with approved change orders, if applicable, less all previous payments to the Contractor. If the contract price exceeds one hundred fifty thousand dollars (\$150,000), the Town may make the final payment to the Contractor only after the Town has published notice of such final payment in accordance with C.R.S. § 24-91-103.

**7.00 ADDITIONAL WORK:** Should work beyond that described in the Contract Documents be required, it will be paid for as extra work at a cost to be agreed upon in separate written agreement by the Town and the Contractor prior to commencement of the additional work. Such additional agreements shall be executed and approved by all persons required by Town purchasing ordinances or policies. Unless specifically excluded, such written agreements shall be considered part of the Contract Documents.

**8.00 CONTRACTOR'S REPRESENTATIONS:** In order to induce the Town to enter into this Agreement,

the Contractor makes the following representations:

- a. The Contractor has familiarized itself with the nature and the extent of the Contract Documents, Scope of Work, the locality, all physical characteristics of the area of the work within the Scope of Work, including without limitation, improvements, soil conditions, drainage, topography, and all other features of the terrain, and with the local conditions and federal, state, and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress, or performance of the work, or apply in any manner whatsoever to the work.
- b. Contractor has carefully considered all physical conditions at the site and existing facilities affecting cost, progress, or performance of the work.
- c. Contractor has given the Town written notice of all conflicts, errors, or discrepancies that it has discovered in the Contract Documents and such documents are acceptable to the Contractor.
- d. Contractor shall not extend the credit or faith of the Owner to any other persons or organizations.

**9.00 INSURANCE:** Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all obligations assumed by the Contractor pursuant to this Agreement. Contractor shall not commence work under this Agreement until it has obtained all said insurance required by the Contract Documents and such insurance has been approved by the Town. The Contractor shall not allow any subcontractor to commence work on this project until all similar insurance required of the subcontractor has been obtained and approved. For the duration of this Agreement, the Contractor must continuously maintain the insurance coverage required in this section, with the minimum insurance coverage listed below:

- a. Worker's Compensation in accordance with the Worker's Compensation Act of the State of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract.
- b. Comprehensive General liability insurance with minimum limits of ONE MILLION DOLLARS (\$1,000,000) per each occurrence, AND TWO MILLION DOLLARS (\$2,000,000) aggregate, plus an additional amount sufficient to pay related attorneys' fees and defense costs. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.
- c. Comprehensive Automobile Liability insurance with minimum limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) per each occurrence, plus an additional amount sufficient to pay related attorneys' fees and defense costs, with respect to each of the Contractor's owned, hired or non owned vehicles assigned to or used in performance of this contract.
- d. Builder's Risk insurance with minimum limits of not less than the insurable value of the work to be performed under this contract at completion less the value of the materials and equipment insured under installation floater insurance. The policy shall be written in completed value form and shall protect the Contractor and the Town against risks of damage to buildings, structures, and materials and equipment not otherwise covered under Installation Floater insurance, from the perils of fire and lightning, the perils included in the standard coverage endorsement, and the perils of vandalism and malicious mischief. Equipment such as pumps, engine-generators, compressors, motors, switch-gear, transformers, panel-boards, control equipment, and other similar equipment shall be insured under Installation Floater insurance when the aggregate value of the equipment exceeds \$10,000. The policy shall provide for

losses to be payable to the Contractor and the Town as their interests may appear. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the insurance company shall have no rights of recovery against the Contractor or the Town.

- e.  If this box is checked, Professional Liability/Errors and Omission in an amount not less than \_\_\_\_\_ MILLION DOLLARS (\$\_\_\_\_,000,000).

Certificates of insurance shall be completed by the Contractor's insurance agent as evidence that policies providing the required coverage, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the Town. The policies required above shall be endorsed to include the Town and the Town's officers and employees as additional insureds. Every policy required above shall be primary insurance and any insurance carried by the Town, its officers, or its employees, or carried by or provided through any self-insurance pool of the Town, shall be excess and not contributory insurance to that provided by the Contractor. Contractor shall be solely responsible for paying any and all deductibles.

Each certificate of insurance shall identify this Agreement or the project set forth in the Scope of Work and shall provide that the coverage afforded under the policies shall not be cancelled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the Town. If the words "endeavor to" appear in the portion of the certificate of insurance addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

**10.00 BONDS:** Contractor shall furnish a performance bond, payment bond, and warranty bond in an amount determined by the Town, but in any event at least equal to the Contract Price, as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents, including but not limited to the guaranty period. These bonds shall remain in effect at least until one year after the date of final payment. All bonds shall be in the forms prescribed by the Contract Documents and be executed by such sureties as (i) are licensed to conduct business in the State of Colorado and (ii) are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570, amended, by the Audit Staff, Bureau of Account, U.S. Treasury Department. All bonds signed by an agent must be accompanied by a certified copy of the authority to act. If the surety on any bond furnished by the Contractor is declared bankrupt or becomes insolvent, or its right to do business in Colorado is terminated, or it ceases to meet the requirements of clauses (i) and (ii) of this section, Contractor shall, within five (5) days thereafter, substitute another bond and surety, both of which shall be acceptable to the Town.

**11.00 NO WAIVER OF GOVERNMENTAL IMMUNITY:** The parties hereto understand and agree that the parties are relying on, and do not waive or intend to waive by any provision of this Agreement or the remainder of the Contract Documents, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101 et seq., 10 C.R.S., as from time to time amended, or otherwise available to the parties, their officers, agents or their employees.

**12.00 INDEMNIFICATION:** The Contractor agrees, to the fullest extent permitted by law, to indemnify, defend and hold the Town, its agencies, employees, officials and agents ("Indemnitees") harmless from any and all claims, settlements, judgments, damages and costs, including reasonable attorney fees, of every kind and nature made, to include all costs associated with the investigation and defense of any claim, rendered or incurred by or on behalf of the Indemnitees, that may arise, occur, or grow out of any errors, omissions, or negligent acts, done by the Contractor, its employees, subcontractors or any independent consultants working under the direction of either the Contractor or any subcontractor in the performance of this Contract; provided, however, that Contractor's obligations and liability hereunder shall not exceed the amount represented by the degree or percentage of negligence or fault attributable to the Contractor or any officer, employee, representative, agent, subcontractor, or other person acting under Contractor's direction or control, as determined pursuant to C.R.S. § 13-50.5-102(8)(c).



**13.00 TERMINATION FOR CONVENIENCE:** This Agreement and the performance of the Scope of Work hereunder may be terminated at any time in whole, or from time to time in part, by the Town for its convenience. Any such termination shall be effected by delivery to the Contractor of a written notice ("**Notice of Termination**") specifying the extent to which performance of the Scope of Work is terminated and the date upon which termination becomes effective. If the Agreement is terminated, the Contractor shall be paid on a pro-rated basis of work status satisfactorily completed, under the detailed Scope of Work. The portion of the Scope of Work satisfactorily completed but not yet accepted by the Town shall be determined by the Town.

**14.00 EVENTS OF AND TERMINATION FOR DEFAULT:**

- (1) The Town may serve written notice upon the Contractor of its intention to terminate this Agreement in the presence of one of the following events of default:
  - a. Contractor fails to initiate the Scope of Work at the agreed upon time;
  - b. The Contractor unnecessarily or unreasonably delays the performance of the Scope of Work;
  - c. The Contractor does not complete the Scope of Work within the time specified or within the time to which completion of the Scope of Work has been extended;
  - d. Contractor fails to make prompt payments for labor, materials or to subcontractors;
  - e. Contractor willfully violates this Agreement or disregards laws, ordinances or instructions of the Town;
  - f. Contractor abandons performance of the Scope of Work;
  - g. The Contractor assigns, transfers or sublets this Agreement or any part thereof without Town approval;
  - h. Contractor becomes insolvent or adjudged bankrupt; or
  - i. Contractor refuses to remove materials or perform any work within the Scope of Work that has been rejected as defective or unsuitable.
  
- (2) Such written notice shall contain the reasons for the intention to terminate this Agreement and provide a five (5) business day period during which the Contractor may cure the event of default. A failure to timely cure the event of default shall authorize the Town to immediately terminate this Agreement and take whatever steps it deems necessary to complete the Scope of Work, if so desired by the Town in its sole discretion. The costs and charges incurred by the Town, together with the costs of completion of the Scope of Work shall be deducted from any monies owed to Contractor. If the expense incurred by the Town is greater than the sums payable under this Agreement, the Contractor shall pay the Town, within sixty (60) days of demand therefor the amount of such excess cost suffered by the Town.

**15.00 LIABILITY FOR EMPLOYMENT-RELATED RIGHTS AND COMPENSATION:** The Contractor will comply with all laws, regulations, municipal codes, and ordinances and other requirements and standards applicable to the Contractor's employees, including, without limitation, federal and state laws governing wages and overtime, equal employment, safety and health, employees' citizenship, withholdings, reports and record keeping. Accordingly, the Town shall not be called upon to assume any liability for or direct payment of any salaries, wages, contribution to pension funds, insurance premiums or payments, workers' compensation benefits or any other amenities of employment to any of the Contractor's employees or any other liabilities whatsoever, unless otherwise specifically provided herein.

The Town will not include the Contractor as an insured under any policy the Town has for itself. The Town shall not be obligated to secure nor provide any insurance coverage or employment benefits of any kind or type to or for the Contractor or the Contractor's employees, sub-consultants, subcontractors, agents, or representatives, including but not limited to

coverage or benefits related to: local, state, or federal income or other tax contributions, FICA, workers' compensation, unemployment compensation, medical insurance, life insurance, paid vacations, paid holidays, pension or retirement account contributions, profit sharing, professional liability insurance, or errors and omissions insurance. The following disclosure is provided in accordance with Colorado law:

**CONTRACTOR ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS CONTRACTOR OR SOME ENTITY OTHER THAN THE TOWN PROVIDES SUCH BENEFITS. CONTRACTOR FURTHER ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO WORKERS' COMPENSATION BENEFITS. CONTRACTOR ALSO ACKNOWLEDGES THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.**

To the maximum extent permitted by law, the Contractor waives all claims against the Town for any Employee Benefits; the Contractor will defend the Town from any claim and will indemnify the Town against any liability for any Employee Benefits for the Contractor imposed on the Town; and the Contractor will reimburse the Town for any award, judgment, or fine against the Town based on the position the Contractor was ever the Town's employee, and all attorneys' fees and costs the Town reasonably incurs defending itself against any such liability.

**16.00 GOVERNING LAW AND VENUE:** Venue for any and all legal matters regarding or arising out of the transactions covered herein shall be solely in the District Court in and for Weld County, State of Colorado. This transaction shall be governed by the laws of the State of Colorado.

**17.00 ASSIGNMENT:** The Contractor shall not assign any of his rights or obligations under this Agreement without the prior written consent of the Town. Upon any assignment, even though consented to by the Owner, the Contractor shall remain liable for the performance of the work under this agreement.

**18.00 LAWFUL PERFORMANCE:** It is further agreed that no party to this Agreement will perform contrary to any state, federal, or county law, or any of the ordinances of the Town of Mead, Colorado.

**19.00 INVALID SECTIONS:** Should any section of this Agreement be found to be invalid, it is agreed that all other sections shall remain in full force and effect as though severable from the invalid part.

**20.00 NOTICE:** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by delivery of same in person to the addressee or by courier delivery via Federal Express or other nationally recognized overnight air courier service, by electronically-confirmed facsimile or email transmission, or by depositing same in the United States mail, postage prepaid, addressed as follows:

The Town:    Town of Mead  
Attn: Town Manager  
441 Third Street,  
Mead, CO 80542  
Email: \_\_\_\_\_

With a copy to:    Michow Guckenberger McAskin, LLP  
Attn: Mead Town Attorney  
5299 DTC Blvd., Suite 300  
Greenwood Village, CO 80111  
Email: \_\_\_\_\_

Contractor:

With a copy to:

**21.00 SURVIVAL:** The parties understand and agree that all terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.

**22.00 ATTORNEY'S FEES:** If the Contractor breaches this Agreement, then it shall pay the Town's reasonable costs and attorney's fees incurred in the enforcement of the terms, conditions, and obligations of this Agreement.

**23.00 INTEGRATION AND AMENDMENT:** This Agreement constitutes the entire agreement between the parties, superseding all prior oral or written communications. This Agreement may only be modified or amended upon written agreement signed by the parties.

**24.00 RIGHTS AND REMEDIES:** Any rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted.

**25.00 BINDING EFFECT:** The parties agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns; provided that this section shall not authorize assignment.

**26.00 NO THIRD-PARTY BENEFICIARIES:** Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, sub-consultant or subcontractor of Contractor. Absolutely no third-party beneficiaries are intended by this Agreement. Any third party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.

**27.00 CONFLICT BETWEEN DOCUMENTS:** In the event a conflict exists between this Agreement and any term in any exhibit attached or incorporated into this Agreement, the terms in this Agreement shall supersede the terms in such exhibit. In the event of a conflict between any of the Contract Documents, the following order of precedence shall apply: (1) change orders, (2) this Agreement, as may be amended, (3) special provisions, (4) general conditions, (5) design standards and specifications, including any addenda, (6) design documents, and (7) any other Contract Documents, with the more specific or stricter provision controlling.

**28.00 FORCE MAJEURE:** Neither the Contractor nor the Town shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is caused by "force majeure." As used in this Agreement, "force majeure" means acts of God, acts of the public enemy, acts of terrorism, unusually severe weather, fires, floods, epidemics, pandemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.

**29.00 PROTECTION OF PERSONAL IDENTIFYING INFORMATION:** In the event the Work includes or requires the Town to disclose to Contractor any personal identifying information as defined in C.R.S. § 24-73-101, Contractor shall comply with the applicable requirements of C.R.S. §§ 24-73-101, et seq., relating to third-party service providers.

**30.00 AUTHORITY:** The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of the Town of Mead and the Contractor and bind their respective entities.

**31.00 COUNTERPARTS:** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

***SIGNATURE PAGE FOLLOWS***

**IN WITNESS WHEREOF, the Parties have caused this Construction Agreement to be executed on the dates written below.**

TOWN OF MEAD:

Board of Trustees *(for contracts exceeding \$25,000 pursuant to Sec. 4-2-20 of the Mead Municipal Code)*

ATTEST:

By: \_\_\_\_\_  
Mary Strutt, Town Clerk, MMC

By: \_\_\_\_\_  
Colleen G. Whitlow, Mayor

OR

Town Manager *(for contracts \$25,000 or less pursuant to Sec. 4-2-20 of the Mead Municipal Code)*

By: \_\_\_\_\_  
Helen Migchelbrink, Town Manager

Date of Execution: \_\_\_\_\_

CONTRACTOR:

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

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

Title: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

The foregoing Construction Agreement was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
**(Required for all contracts pursuant to C.R.S. § 8-40-202(2)(b)(IV))**

**EXHIBIT A**  
**CONTRACTOR'S FORM OF BID**

*[See attached document]*

## PERFORMANCE BOND

CONTRACTOR *(name and address)*:

SURETY *(name and address of principal place of business)*:

OWNER *(name and address)*:

### CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location)*:

### BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract)*:

Amount:

Modifications to this Bond Form:  None  See Paragraph 16

---

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

### CONTRACTOR AS PRINCIPAL

### SURETY

\_\_\_\_\_  
*(seal)*

Contractor's Name and Corporate Seal

\_\_\_\_\_  
*(seal)*

Surety's Name and Corporate Seal

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

Signature

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

Signature *(attach power of attorney)*

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest: \_\_\_\_\_

Signature

Attest: \_\_\_\_\_

Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.**

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of

the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

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

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within



two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

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

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

## PAYMENT BOND

CONTRACTOR *(name and address)*:

SURETY *(name and address of principal place of business)*:

OWNER *(name and address)*:

### CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location)*:

### BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract)*:

Amount:

Modifications to this Bond Form:  None  See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

### CONTRACTOR AS PRINCIPAL

### SURETY

\_\_\_\_\_  
Contractor's Name and Corporate Seal

\_\_\_\_\_  
Surety's Name and Corporate Seal

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

By: \_\_\_\_\_  
Signature *(attach power of attorney)*

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest: \_\_\_\_\_  
Signature

Attest: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**Notes:** (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
  - 5.1 Claimants who do not have a direct contract with the Contractor,
    - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
    - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
  - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
  - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
  - 7.2 Pay or arrange for payment of any undisputed amounts.
  - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or

(2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. **Definitions**

16.1 **Claim:** A written statement by the Claimant including at a minimum:

1. The name of the Claimant;
2. The name of the person for whom the labor was done, or materials or equipment furnished;
3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
4. A brief description of the labor, materials, or equipment furnished;
5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
7. The total amount of previous payments received by the Claimant; and
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond

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

16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. Modifications to this Bond are as follows:

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

## STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared By



Endorsed By



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# **GUIDELINES FOR USE OF EJCDC® C-700, STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT**

## **1.0 PURPOSE AND INTENDED USE OF THE DOCUMENT**

EJCDC® C-700, Standard General Conditions of the Construction Contract (2018), is the foundation document for the EJCDC Construction Series. The General Conditions define the basic rights, responsibilities, risk allocations, and contractual relationship of the Owner and Contractor, and establish how the Contract is to be administered.

## **2.0 OTHER DOCUMENTS**

EJCDC documents are intended to be used as a system and changes in one EJCDC document may require a corresponding change in other documents. Other EJCDC documents may also serve as a reference to provide insight or guidance for the preparation of this document.

These General Conditions have been prepared for use with either EJCDC® C-520, Agreement Between Owner and Contractor for Construction Contract (Stipulated Price), or EJCDC® C-525, Agreement Between Owner and Contractor for Construction Contract (Cost-Plus-Fee) (2018 Editions). The provisions of the General Conditions and the Agreement are interrelated, and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC® C-800, Supplementary Conditions of the Construction Contract (2018).

The full EJCDC Construction series of documents is discussed in the EJCDC® C-001, Commentary on the 2018 EJCDC Construction Documents (2018).

## **3.0 ORGANIZATION OF INFORMATION**

All parties involved in a construction project benefit significantly from a standardized approach in the location of subject matter throughout the documents. Experience confirms the danger of addressing the same subject matter in more than one location; doing so frequently leads to confusion and unanticipated legal consequences. Careful attention should be given to the guidance provided in EJCDC® N-122/AIA® A521, Uniform Location of Subject Matter (2012 Edition) when preparing documents. EJCDC® N-122/AIA® A521 is available at no charge from the EJCDC website, [www.ejcdc.org](http://www.ejcdc.org), and from the websites of EJCDC's sponsoring organizations.

If CSI MasterFormat™ is used for organizing the Project Manual, consult CSI MasterFormat™ for the appropriate document number (e.g., under 00 11 00, Advertisements and Invitations), and accordingly number the document and its pages.

## **4.0 EDITING THIS DOCUMENT**

Remove these Guidelines for Use. Some users may also prefer to remove the two cover pages.

Although it is permissible to revise the Standard EJCDC Text of C-700 (the content beginning at page 1 and continuing to the end), it is common practice to leave the Standard EJCDC Text of C-700 intact and unaltered, with modifications and supplementation of C-700's provisions set forth in EJCDC® C-800, Supplementary Conditions of the Construction Contract (2018). If the Standard Text itself is revised, the

user must comply with the terms of the License Agreement, Paragraph 4.0, Document-Specific Provisions, concerning the tracking or highlighting of revisions. The following is a summary of the relevant License Agreement provisions:

1. The term “Standard EJCDC Text” for C-700 refers to all text prepared by EJCDC in the main body of the document. Document covers, logos, footers, instructions, or copyright notices are not Standard EJCDC Text for this purpose.
2. During the drafting or negotiating process for C-700, it is important that the two contracting parties are both aware of any changes that have been made to the Standard EJCDC Text. Thus, if a draft or version of C-700 purports to be or appears to be an EJCDC document, the user must plainly show all changes to the Standard EJCDC Text, using “Track Changes” (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions.
3. If C-700 has been revised or altered and is subsequently presented to third parties (such as potential bidders, grant agencies, lenders, or sureties) as an EJCDC document, then the changes to the Standard EJCDC Text must be shown, or the third parties must receive access to a version that shows the changes.
4. Once the document is ready to be finalized (and if applicable executed by the contracting parties), it is no longer necessary to continue to show changes to the Standard EJCDC Text. The user may produce a final version of the document in a format in which all changes are accepted, and the document at that point does not need to include any “Track Changes,” redline/strikeout, highlighting, or other indication of additions and deletions to the Standard EJCDC Text.

## **5.0 LICENSE AGREEMENT**

This document is subject to the terms and conditions of the **License Agreement, 2018 EJCDC® Construction Series Documents**. A copy of the License Agreement was furnished at the time of purchase of this document, and is available for review at [www.ejcdc.org](http://www.ejcdc.org) and the websites of EJCDC’s sponsoring organizations.



# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## ARTICLE 1—DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
  2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
  3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
  4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
  5. *Bidder*—An individual or entity that submits a Bid to Owner.
  6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
  7. *Bidding Requirements*—The Advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
  8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
  9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
  10. *Claim*
    - a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract Price or Contract Times; contesting an initial decision by Engineer concerning the

- requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.
- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.
  - c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
  - d. A demand for money or services by a third party is not a Claim.
11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
  12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
  13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
  14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
  15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
  16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
  17. *Cost of the Work*—See Paragraph 13.01 for definition.
  18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
  19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
  20. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
  21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the

recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.

22. *Engineer*—The individual or entity named as such in the Agreement.
23. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.
  - a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
  - b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
  - c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.
32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.



33. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals.
36. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor’s Applications for Payment.
37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
38. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
39. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
40. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
41. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers’ instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion of such Work.

43. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.
44. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
45. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
46. *Technical Data*
- a. Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.
  - b. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.
  - c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.
47. *Underground Facilities*—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
48. *Unit Price Work*—Work to be paid for on the basis of unit prices.
49. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
50. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

## 1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:* The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:* The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:* The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
1. does not conform to the Contract Documents;
  2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
  3. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).
- E. *Furnish, Install, Perform, Provide*
1. The word “furnish,” when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
  2. The word “install,” when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
  3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.
  4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

- F. *Contract Price or Contract Times*: References to a change in “Contract Price or Contract Times” or “Contract Times or Contract Price” or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term “or both” is not expressed.
- G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## **ARTICLE 2—PRELIMINARY MATTERS**

### **2.01 *Delivery of Performance and Payment Bonds; Evidence of Insurance***

- A. *Performance and Payment Bonds*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies.
- C. *Evidence of Owner’s Insurance*: After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

### **2.02 *Copies of Documents***

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

### **2.03 *Before Starting Construction***

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:
  - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
  - 2. a preliminary Schedule of Submittals; and
  - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work

into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.
  - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
  - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
  - 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
  - 4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

## ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

### 3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
  - 1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
  - 2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

### 3.02 *Reference Standards*

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

inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

### 3.03 *Reporting and Resolving Discrepancies*

#### A. *Reporting Discrepancies*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

#### B. *Resolving Discrepancies*

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

### 3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.

- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

### 3.05 *Reuse of Documents*

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

## **ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK**

### 4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the 30th day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the 60th day after the day of Bid opening or the 30th day after the Effective Date of the Contract, whichever date is earlier.

### 4.02 *Starting the Work*

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

### 4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the



established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

#### 4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
  - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
  - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

#### 4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
  - 1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
  - 2. Abnormal weather conditions;
  - 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
  - 4. Acts of war or terrorism.

- D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
  2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
  3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
  2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
  3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
  4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
  5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.
- Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.
- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

## **ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS**

### **5.01 *Availability of Lands***

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.

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

## 5.02 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
  2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.
  - C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment

and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

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

### 5.03 *Subsurface and Physical Conditions*

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

1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
3. Technical Data contained in such reports and drawings.

- B. *Underground Facilities*: Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

- C. *Reliance by Contractor on Technical Data*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.

- D. *Limitations of Other Data and Documents*: Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

#### 5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;
  2. is of such a nature as to require a change in the Drawings or Specifications;
  3. differs materially from that shown or indicated in the Contract Documents; or
  4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- E. *Possible Price and Times Adjustments*
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in

Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
  - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
  - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
- a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;
  - b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
  - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.
- F. *Underground Facilities; Hazardous Environmental Conditions*: Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

#### 5.05 *Underground Facilities*

- A. *Contractor's Responsibilities*: Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
  2. complying with applicable state and local utility damage prevention Laws and Regulations;

3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
  4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
  5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.
- C. *Engineer's Review:* Engineer will:
1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
  2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
  3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
  4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.

During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- F. *Possible Price and Times Adjustments*
1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown

or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
  - b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
  - c. Contractor gave the notice required in Paragraph 5.05.B.
2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
  3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.
  4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

#### 5.06 *Hazardous Environmental Conditions at Site*

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

1. those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;
2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures



- of construction to be employed by Contractor, and safety precautions and programs incident thereto;
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
  3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.
- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special

conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

## **ARTICLE 6—BONDS AND INSURANCE**

### **6.01 *Performance, Payment, and Other Bonds***

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.
- B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.
- C. All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or

- Regulations, and must be issued and signed by a surety named in “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies” as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual’s authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
  - E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
  - F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner’s termination rights under Article 16.
  - G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.
  - H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

#### 6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and “Occupational Accident and Excess Employer’s Indemnity Policies,” are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.
- D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by

Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.

- E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.
- F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.
- H. Contractor shall require:
  - 1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
  - 2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
- I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.
- K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.

- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

#### 6.03 Contractor's Insurance

- A. *Required Insurance:* Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.
- B. *General Provisions:* The policies of insurance required by this Paragraph 6.03 as supplemented must:
  - 1. include at least the specific coverages required;
  - 2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;
  - 3. remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;
  - 4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable; and
  - 5. include all necessary endorsements to support the stated requirements.
- C. *Additional Insureds:* The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:
  - 1. include and list as additional insureds Owner and Engineer, and any individuals or entities identified as additional insureds in the Supplementary Conditions;
  - 2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
  - 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);

4. not seek contribution from insurance maintained by the additional insured; and
5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

#### 6.04 *Builder's Risk and Other Property Insurance*

- A. *Builder's Risk*: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.
- B. *Property Insurance for Facilities of Owner Where Work Will Occur*: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.
- C. *Property Insurance for Substantially Complete Facilities*: Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.
- D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

#### 6.05 *Property Losses; Subrogation*

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against

Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.

1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.
  2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.
1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies.
- C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.
- D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

**ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES**

7.01 *Contractor's Means and Methods of Construction*

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

7.02 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.03 *Labor; Working Hours*

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



- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.04 *Services, Materials, and Equipment*

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

7.05 *"Or Equals"*

- A. *Contractor's Request; Governing Criteria:* Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
  - 1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an "or equal" item. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
    - a. in the exercise of reasonable judgment Engineer determines that the proposed item:
      - 1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

- 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
  - 3) has a proven record of performance and availability of responsive service; and
  - 4) is not objectionable to Owner.
- b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
- 1) there will be no increase in cost to the Owner or increase in Contract Times; and
  - 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.
- E. *Treatment as a Substitution Request*: If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

#### 7.06 *Substitutes*

- A. *Contractor's Request; Governing Criteria*: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.
1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
  2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.

3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
  - a. will certify that the proposed substitute item will:
    - 1) perform adequately the functions and achieve the results called for by the general design;
    - 2) be similar in substance to the item specified; and
    - 3) be suited to the same use as the item specified.
  - b. will state:
    - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;
    - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
    - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
  - c. will identify:
    - 1) all variations of the proposed substitute item from the item specified; and
    - 2) available engineering, sales, maintenance, repair, and replacement services.
  - d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

7.07 *Concerning Subcontractors and Suppliers*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.
- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.
- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

- H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.
- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 *Patent Fees and Royalties*

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

#### 7.09 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

#### 7.10 *Taxes*

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

#### 7.11 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03.
- C. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such written notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

#### 7.12 *Record Documents*

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

### 7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
  - 1. all persons on the Site or who may be affected by the Work;
  - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.
- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 *Hazard Communication Programs*

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

7.15 *Emergencies*

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

7.16 *Submittals*

A. *Shop Drawing and Sample Requirements*

- 1. Before submitting a Shop Drawing or Sample, Contractor shall:
  - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
  - b. determine and verify:
    - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
    - 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
    - 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
  - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
- 2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.



3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.
1. *Shop Drawings*
    - a. Contractor shall submit the number of copies required in the Specifications.
    - b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.
  2. *Samples*
    - a. Contractor shall submit the number of Samples required in the Specifications.
    - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.
  3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Engineer's Review of Shop Drawings and Samples*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
  2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
  3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
  4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will

document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.

5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

*D. Resubmittal Procedures for Shop Drawings and Samples*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.
2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

*E. Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs*

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
  - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
  - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.
  - c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.

- d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
  2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.
- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

**7.17 Contractor's General Warranty and Guarantee**

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer is entitled to rely on Contractor's warranty and guarantee.
- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:
1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and
  2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
  2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
1. Observations by Engineer;
  2. Recommendation by Engineer or payment by Owner of any progress or final payment;
  3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
  4. Use or occupancy of the Work or any part thereof by Owner;
  5. Any review and approval of a Shop Drawing or Sample submittal;
  6. The issuance of a notice of acceptability by Engineer;
  7. The end of the correction period established in Paragraph 15.08;
  8. Any inspection, test, or approval by others; or

9. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.

- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
  - 1. Checking for conformance with the requirements of this Paragraph 7.19;
  - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
  - 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

## **ARTICLE 8—OTHER WORK AT THE SITE**

### **8.01 *Other Work***

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

#### 8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
  - 1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
  - 2. An itemization of the specific matters to be covered by such authority and responsibility; and
  - 3. The extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

#### 8.03 *Legal Relationships*

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
  - 1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
  - 2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.
- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

## **ARTICLE 9—OWNER'S RESPONSIBILITIES**

### **9.01 *Communications to Contractor***

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

### **9.02 *Replacement of Engineer***

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents will be that of the former Engineer.

### **9.03 *Furnish Data***

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

### **9.04 *Pay When Due***

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

- 9.05 *Lands and Easements; Reports, Tests, and Drawings*
- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
  - B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
  - C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.
- 9.06 *Insurance*
- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.
- 9.07 *Change Orders*
- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.
- 9.08 *Inspections, Tests, and Approvals*
- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.
- 9.09 *Limitations on Owner's Responsibilities*
- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- 9.10 *Undisclosed Hazardous Environmental Condition*
- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.
- 9.11 *Evidence of Financial Arrangements*
- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).
- 9.12 *Safety Programs*
- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
  - B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.



## ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

### 10.01 *Owner's Representative*

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

### 10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

### 10.03 *Resident Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.
- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

### 10.04 *Engineer's Authority*

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer's authority as to changes in the Work is set forth in Article 11.

E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

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

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.07 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

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

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

D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

10.08 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs of which Engineer has been informed.

## ARTICLE 11—CHANGES TO THE CONTRACT

### 11.01 *Amending and Supplementing the Contract*

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.
- C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer.

### 11.02 *Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
  - 1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
  - 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
  - 3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; and
  - 4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

### 11.03 *Work Change Directives*

- A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.

- B. If Owner has issued a Work Change Directive and:
  - 1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.
  - 2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

#### 11.04 *Field Orders*

- A. Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly.
- B. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

#### 11.05 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.
- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.
- C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

#### 11.06 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

#### 11.07 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:

1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
  2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
  3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit will be determined as follows:
1. A mutually acceptable fixed fee; or
  2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
    - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;
    - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
    - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
    - d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
    - e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
    - f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

#### 11.08 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.
- B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

#### 11.09 *Change Proposals*

A. *Purpose and Content:* Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.

#### B. *Change Proposal Procedures*

1. *Submittal:* Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
2. *Supporting Data:* The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
  - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
  - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

3. *Engineer's Initial Review:* Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.
4. *Engineer's Full Review and Action on the Change Proposal:* Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change

Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

5. *Binding Decision*: Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- C. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.
- D. *Post-Completion*: Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

#### 11.10 *Notification to Surety*

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

### **ARTICLE 12—CLAIMS**

#### 12.01 *Claims*

- A. *Claims Process*: The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:
  1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
  2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
  3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
  4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.
- B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge

and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

- C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation*
  - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
  - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.
  - 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

## **ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

### **13.01 *Cost of the Work***

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
  - 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or



2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
  2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
  3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
  4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
  5. Other costs consisting of the following:
    - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
    - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are

consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

- 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.

c. *Construction Equipment Rental*

- 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
- 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
- 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.

- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

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

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. The cost of purchasing, renting, or furnishing small tools and hand tools.
- 3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 5. 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.
- 6. Expenses incurred in preparing and advancing Claims.
- 7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee*

- 1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
  - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.
  - b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
    - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
    - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
- 2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change

Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.

- E. *Documentation and Audit:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

### 13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances:* Contractor agrees that:
  - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
  - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.
- C. *Owner's Contingency Allowance:* Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

### 13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision

thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.

E. *Adjustments in Unit Price*

1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
  - a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
  - b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
3. Adjusted unit prices will apply to all units of that item.

**ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK**

14.01 *Access to Work*

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

14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
  2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
  3. by manufacturers of equipment furnished under the Contract Documents;
  4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
  5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests will be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

#### 14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs,

losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

#### 14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work will be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

#### 14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then 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, and provide all necessary labor, material, and equipment.
  - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
  - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

#### 14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work,

or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

**14.07 Owner May Correct Defective Work**

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

**ARTICLE 15—PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD**

**15.01 Progress Payments**

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments*
  - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
  - 2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation



establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
  - a. the Work has progressed to the point indicated;
  - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
  - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
  - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
  - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
  - a. to supervise, direct, or control the Work;
  - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
  - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
  - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or
  - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
  - a. the Work is defective, requiring correction or replacement;
  - b. the Contract Price has been reduced by Change Orders;
  - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
  - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

**D. *Payment Becomes Due***

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

**E. *Reductions in Payment by Owner***

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
  - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

- b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
  - c. Contractor has failed to provide and maintain required bonds or insurance;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
  - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
  - f. The Work is defective, requiring correction or replacement;
  - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - h. The Contract Price has been reduced by Change Orders;
  - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
  - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
  - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
  - l. Other items entitle Owner to a set-off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
  3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

**15.02 Contractor's Warranty of Title**

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner.

**15.03 Substantial Completion**

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time

submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

#### 15.04 *Partial Use or Occupancy*

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

significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.
2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

#### 15.05 *Final Inspection*

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

#### 15.06 *Final Payment*

##### A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
2. The final Application for Payment must be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents;
  - b. consent of the surety, if any, to final payment;
  - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.

- d. a list of all duly pending Change Proposals and Claims; and
  - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. *Notice of Acceptability:* In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
- E. *Final Payment Becomes Due:* Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

#### 15.07 *Waiver of Claims*

- A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim,

appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.

- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

#### 15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
  - 1. correct the defective repairs to the Site or such adjacent areas;
  - 2. correct such defective Work;
  - 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
  - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.
- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

- F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

## **ARTICLE 16—SUSPENSION OF WORK AND TERMINATION**

### **16.01 *Owner May Suspend Work***

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such adjustments must be submitted no later than 30 days after the date fixed for resumption of Work.

### **16.02 *Owner May Terminate for Cause***

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
  - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
  - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
  - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
  - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
  - 1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
  - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, 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 complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects,



attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. 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, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

#### 16.03 *Owner May Terminate for Convenience*

- A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
  - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
  - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
  - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

#### 16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The

provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

## **ARTICLE 17—FINAL RESOLUTION OF DISPUTES**

### **17.01 *Methods and Procedures***

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this article:
1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and
  2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this article, Owner or Contractor may:
1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions;
  2. agree with the other party to submit the dispute to another dispute resolution process; or
  3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

## **ARTICLE 18—MISCELLANEOUS**

### **18.01 *Giving Notice***

- A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:
1. in person, by a commercial courier service or otherwise, to the recipient's place of business;
  2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
  3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

### **18.02 *Computation of Times***

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

18.03 *Cumulative Remedies*

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

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

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

18.08 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

18.09 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

18.10 *Headings*

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

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

## SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared By



Endorsed By



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# SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

These Supplementary Conditions amend or supplement EJCDC® C-700, Standard General Conditions of the Construction Contract (2018). The General Conditions remain in full force and effect except as amended.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added—for example, "Paragraph SC-4.05."

## ARTICLE 1—DEFINITIONS AND TERMINOLOGY

No suggested Supplementary Conditions in this Article.

## ARTICLE 2—PRELIMINARY MATTERS

### 2.01 *Delivery of Bonds and Evidence of Insurance*

SC-2.01 Delete Paragraphs 2.01.B. and C. in their entirety and insert the following in their place:

- B. *Evidence of Contractor's Insurance:* When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of the policies (including all endorsements, and identification of applicable self-insured retentions and deductibles) of insurance required to be provided by Contractor in this Contract. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- C. *Evidence of Owner's Insurance:* After receipt from Contractor of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor copies of the policies of insurance to be provided by Owner in this Contract (if any). Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

### 2.02 *Copies of Documents*

SC-2.02 Amend the first sentence of Paragraph 2.02.A. to read as follows:

Owner shall furnish to Contractor **one** printed copy of the Contract Documents (including one fully signed counterpart of the Agreement), and one in electronic portable document format (PDF).

SC-2.02 Delete Paragraph 2.02.A in its entirety and insert the following new paragraph in its place:

- A. Owner shall furnish to Contractor **one** printed copy of conformed Contract Documents incorporating and integrating all Addenda and any amendments negotiated prior to the Effective Date of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies of the conformed Contract Documents will be furnished upon request at the cost of reproduction.

## 2.06 *Electronic Transmittals*

SC-2.06 Supplement Paragraph 2.06 of the General Conditions by adding the following paragraph:

### D. *Requests by Contractor for Electronic Documents in Other Formats*

1. Release of any Electronic Document versions of the Project documents in formats other than those identified in the Electronic Documents Protocol (if any) or elsewhere in the Contract will be at the sole discretion of the Owner.
2. To extent determined by Owner, in its sole discretion, to be prudent and necessary, release of Electronic Documents versions of Project documents and other Project information requested by Contractor ("Request") in formats other than those identified in the Electronic Documents Protocol (if any) or elsewhere in the Contract will be subject to the provisions of the Owner's response to the Request, and to the following conditions to which Contractor agrees:
  - a. The content included in the Electronic Documents created by Engineer and covered by the Request was prepared by Engineer as an internal working document for Engineer's purposes solely, and is being provided to Contractor on an "AS IS" basis without any warranties of any kind, including, but not limited to any implied warranties of fitness for any purpose. As such, Contractor is advised and acknowledges that the content may not be suitable for Contractor's application, or may require substantial modification and independent verification by Contractor. The content may include limited resolution of models, not-to-scale schematic representations and symbols, use of notes to convey design concepts in lieu of accurate graphics, approximations, graphical simplifications, undocumented intermediate revisions, and other devices that may affect subsequent reuse.
  - b. Electronic Documents containing text, graphics, metadata, or other types of data that are provided by Engineer to Contractor under the request are only for convenience of Contractor. Any conclusion or information obtained or derived from such data will be at the Contractor's sole risk and the Contractor waives any claims against Engineer or Owner arising from use of data in Electronic Documents covered by the Request.
  - c. Contractor shall indemnify and hold harmless Owner and Engineer and their subconsultants from all claims, damages, losses, and expenses, including attorneys' fees and defense costs arising out of or resulting from Contractor's use, adaptation, or distribution of any Electronic Documents provided under the Request.
  - d. Contractor agrees not to sell, copy, transfer, forward, give away or otherwise distribute this information (in source or modified file format) to any third party without the direct written authorization of Engineer, unless such distribution is specifically identified in the Request and is limited to Contractor's subcontractors. Contractor warrants that subsequent use by Contractor's subcontractors complies with all terms of the Contract Documents and Owner's response to Request.
3. In the event that Owner elects to provide or directs the Engineer to provide to Contractor any Contractor-requested Electronic Document versions of Project information that is not explicitly identified in the Contract Documents as being available to Contractor, the Owner shall be reimbursed by Contractor on an hourly basis (at **\$125**



per hour) for any engineering costs necessary to create or otherwise prepare the data in a manner deemed appropriate by Engineer.

### **ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE**

#### *3.01 Intent*

SC-3.01 Delete Paragraph 3.01.C in its entirety.

### **ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK**

#### *4.05 Delays in Contractor's Progress*

SC-4.05 Amend Paragraph 4.05.C by adding the following subparagraphs:

##### *5. Weather-Related Delays*

- a. If “abnormal weather conditions” as set forth in Paragraph 4.05.C.2 of the General Conditions are the basis for a request for an equitable adjustment in the Contract Times, such request must be documented by data substantiating each of the following: 1) that weather conditions were abnormal for the period of time in which the delay occurred, 2) that such weather conditions could not have been reasonably anticipated, and 3) that such weather conditions had an adverse effect on the Work as scheduled.
- b. The existence of abnormal weather conditions will be determined on a month-by-month basis in accordance with the following:
  - 1) Every workday on which one or more of the following conditions exist will be considered a “bad weather day”:
    - i) Total precipitation (as rain equivalent) occurring between 7:00 p.m. on the preceding day (regardless of whether such preceding day is a workday) through 7:00 p.m. on the workday in question equals or exceeds **1.5 inches** of precipitation (as rain equivalent, based on the snow/rain conversion indicated in the table entitled Foreseeable Bad Weather Days; such table is hereby incorporated in this SC-4.05.C by reference.
    - ii) Ambient outdoor air temperature at 11:00 a.m. is equal to or less than the following low temperature threshold: **15** degrees Fahrenheit; or, at 3:00 p.m. the ambient outdoor temperature is equal to or greater than the following high temperature threshold: **98** degrees Fahrenheit.
  - 2) Determination of actual bad weather days during performance of the Work will be based on the weather records measured and recorded by **Mulligan Lakes Estates – KCOMEAD9** weather monitoring station at **Mead, CO**.

### **ARTICLE 5—3) SITE, SUBSURFACE AND PHYSICAL CONDITIONS, HAZARDOUS ENVIRONMENTAL CONDITIONS**

#### *5.03 Subsurface and Physical Conditions*

SC-5.03 Add the following new paragraphs immediately after Paragraph 5.03.D:

- E. The following table lists the reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data, and specifically identifies the Technical Data in the report upon which Contractor may rely

| Report Title   | Date of Report | Technical Data |
|----------------|----------------|----------------|
| Not Applicable |                |                |
|                |                |                |
|                |                |                |

- F. The following table lists the drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data, and specifically identifies the Technical Data upon which Contractor may rely

| Drawings Title | Date of Drawings | Technical Data |
|----------------|------------------|----------------|
| Not Applicable |                  |                |
|                |                  |                |
|                |                  |                |

- G. Contractor may examine copies of reports and drawings identified in SC-5.03.E and SC-5.03.F that were not included with the Bidding Documents at **[location]** during regular business hours, or may request copies from Engineer. Not Applicable

5.06 *Hazardous Environmental Conditions*

SC-5.06 Add the following new paragraphs immediately after Paragraph 5.06.A.3:

4. The following table lists the reports known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and the Technical Data (if any) upon which Contractor may rely

| Report Title   | Date of Report | Technical Data |
|----------------|----------------|----------------|
| Not Applicable |                |                |
|                |                |                |
|                |                |                |

5. The following table lists the drawings known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and Technical Data (if any) contained in such Drawings upon which Contractor may rely: **[If there are no such drawings, so indicate in the table]**

| Drawings Title | Date of Drawings | Technical Data |
|----------------|------------------|----------------|
| Not Applicable |                  |                |
|                |                  |                |
|                |                  |                |

**ARTICLE 6—BONDS AND INSURANCE**

6.01 *Performance, Payment, and Other Bonds*

- SC-6.01 Add the following paragraphs immediately after Paragraph 6.01.A:
1. *Required Performance Bond Form:* The performance bond that Contractor furnishes will be in the form of EJCDC® C-610, Performance Bond (2010, 2013, or 2018 edition).
  2. *Required Payment Bond Form:* The payment bond that Contractor furnishes will be in the form of EJCDC® C-615, Payment Bond (2010, 2013, or 2018 edition).
- SC-6.01 Add the following paragraphs immediately after Paragraph 6.01.B:
1. The correction period specified as one year after the date of Substantial Completion in Paragraph 15.08.A of the General Conditions is hereby revised to be **two** years after Substantial Completion.

## ARTICLE 7—CONTRACTOR’S RESPONSIBILITIES

### 7.03 *Labor; Working Hours*

- SC-7.03 Add the following new subparagraphs immediately after Paragraph 7.03.C:
1. Regular working hours will be **Monday through Friday, 7 AM through 5 PM. Contractor may request to work on a Saturday for approval by the Owner. Request shall be made at least 24 hours in advance.**
  2. Owner's legal holidays are **New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve and Christmas Day.**

### 7.10 *Taxes*

- SC-7.10 Add a new paragraph immediately after Paragraph 7.10.A:
- A. Owner is exempt from payment of sales and compensating use taxes of the State of **Colorado** and of cities and counties thereof on all materials to be incorporated into the Work.
1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
  2. Owner’s exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

## ARTICLE 8—OTHER WORK AT THE SITE

No suggested Supplementary Conditions in this Article.

## ARTICLE 9—OWNER’S RESPONSIBILITIES

### 9.13 *Owner’s Site Representative*

- SC-9.13 Add the following new paragraph immediately after Paragraph 9.12 of the General Conditions:

### 9.13 *Owner’s Site Representative*

- A. Owner will furnish an “Owner’s Site Representative” to represent Owner at the Site and assist Owner in observing the progress and quality of the Work. The Owner’s Site Representative is not Engineer’s consultant, agent, or employee. Owner’s Site Representative will be Manny Windhorst, Program Manager with the Town of Mead.

## **ARTICLE 10—ENGINEER’S STATUS DURING CONSTRUCTION**

### *10.03 Resident Project Representative*

SC-10.03 Add the following new subparagraph immediately after Paragraph 10.03.A:

- 1. On this Project, by agreement with the Owner, the Engineer will not furnish a Resident Project Representative to represent Engineer at the Site or assist Engineer in observing the progress and quality of the Work.

## **ARTICLE 11—CHANGES TO THE CONTRACT**

No suggested Supplementary Conditions in this Article.

## **ARTICLE 12—CLAIMS**

No suggested Supplementary Conditions in this Article.

## **ARTICLE 13—COST OF WORK; ALLOWANCES, UNIT PRICE WORK**

### *13.01 Cost of the Work*

SC-13.01 Supplement Paragraph 13.01.C.2 by adding the following definition of small tools and hand tools:

- a. For purposes of this paragraph, “small tools and hand tools” means any tool or equipment whose current price if it were purchased new at retail would be less than \$500.

### *13.03 Unit Price Work*

SC-13.03 Delete Paragraph 13.03.E in its entirety and insert the following in its place:

#### *E. Adjustments in Unit Price*

- 1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
  - a. the extended price of a particular item of Unit Price Work amounts to **25** percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than **25** percent from the estimated quantity of such item indicated in the Agreement; and
  - b. Contractor’s unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.

2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
3. Adjusted unit prices will apply to all units of that item.

#### **ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK**

No suggested Supplementary Conditions in this Article.

#### **ARTICLE 15—PAYMENTS TO CONTRACTOR, SET OFFS; COMPLETIONS; CORRECTION PERIOD**

##### *15.01 Progress Payments*

SC-15.01 Add the following new Paragraph 15.01.F:

- F. For contracts in which the Contract Price is based on the Cost of Work, if Owner determines that progress payments made to date substantially exceed the actual progress of the Work (as measured by reference to the Schedule of Values), or present a potential conflict with the Guaranteed Maximum Price, then Owner may require that Contractor prepare and submit a plan for the remaining anticipated Applications for Payment that will bring payments and progress into closer alignment and take into account the Guaranteed Maximum Price (if any), through reductions in billings, increases in retainage, or other equitable measures. Owner will review the plan, discuss any necessary modifications, and implement the plan as modified for all remaining Applications for Payment.

##### *15.03 Substantial Completion*

SC-15.03 Add the following new subparagraph to Paragraph 15.03.B:

1. If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel and living expenses, will be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under this Article 15.

##### *15.08 Correction Period*

SC-15.08 Add the following new Paragraph 15.08.G:

- G. The correction period specified as one year after the date of Substantial Completion in Paragraph 15.08.A of the General Conditions is hereby revised to be the number of years set forth in SC-6.01.B.1; or if no such revision has been made in SC-6.01.B, then the correction period is hereby specified to be **two** years after Substantial Completion.

#### **ARTICLE 16—SUSPENSION OF WORK AND TERMINATION**

No suggested Supplementary Conditions in this Article.

## ARTICLE 17—FINAL RESOLUTIONS OF DISPUTES

### 17.02 *Arbitration*

SC-17.02 Add the following new paragraph immediately after Paragraph 17.01.

### 17.02 *Arbitration*

- A. All matters subject to final resolution under this Article will be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules (subject to the conditions and limitations of this Paragraph SC-17.02). Any controversy or claim in the amount of \$100,000 or less will be settled in accordance with the American Arbitration Association's supplemental rules for Fixed Time and Cost Construction Arbitration. This agreement to arbitrate will be specifically enforceable under the prevailing law of any court having jurisdiction.
- B. The demand for arbitration will be filed in writing with the other party to the Contract and with the selected arbitration administrator, and a copy will be sent to Engineer for information. The demand for arbitration will be made within the specific time required in Article 17, or if no specified time is applicable within a reasonable time after the matter in question has arisen, and in no event will any such demand be made after the date when institution of legal or equitable proceedings based on such matter in question would be barred by the applicable statute of limitations.
- C. The arbitrator(s) must be licensed engineers, contractors, attorneys, or construction managers. Hearings will take place pursuant to the standard procedures of the Construction Arbitration Rules that contemplate in-person hearings. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may be required by statute or the Contract. Any award in an arbitration initiated under this clause will be limited to monetary damages and include no injunction or direction to any party other than the direction to pay a monetary amount.
- D. The Arbitrators will have the authority to allocate the costs of the arbitration process among the parties, but will only have the authority to allocate attorneys' fees if a specific Law or Regulation or this Contract permits them to do so.
- E. The award of the arbitrators must be accompanied by a reasoned written opinion and a concise breakdown of the award. The written opinion will cite the Contract provisions deemed applicable and relied on in making the award.
- F. The parties agree that failure or refusal of a party to pay its required share of the deposits for arbitrator compensation or administrative charges will constitute a waiver by that party to present evidence or cross-examine witness. In such event, the other party shall be required to present evidence and legal argument as the arbitrator(s) may require for the making of an award. Such waiver will not allow for a default judgment against the non-paying party in the absence of evidence presented as provided for above.
- G. No arbitration arising out of or relating to the Contract will include by consolidation, joinder, or in any other manner any other individual or entity (including Engineer, and Engineer's consultants and the officers, directors, partners, agents, employees or consultants of any of them) who is not a party to this Contract unless:

1. the inclusion of such other individual or entity will allow complete relief to be afforded among those who are already parties to the arbitration;
  2. such other individual or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration, and which will arise in such proceedings;
  3. such other individual or entity is subject to arbitration under a contract with either Owner or Contractor, or consents to being joined in the arbitration; and
  4. the consolidation or joinder is in compliance with the arbitration administrator's procedural rules.
- H. The award will be final. Judgment may be entered upon it in any court having jurisdiction thereof, and it will not be subject to modification or appeal, subject to provisions of the Laws and Regulations relating to vacating or modifying an arbitral award.
- I. Except as may be required by Laws or Regulations, neither party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties, with the exception of any disclosure required by Laws and Regulations or the Contract. To the extent any disclosure is allowed pursuant to the exception, the disclosure must be strictly and narrowly limited to maintain confidentiality to the extent possible.

#### 17.03 *Attorneys' Fees*

SC-17.03 Add the following new paragraph immediately after Paragraph 17.02. [Note: If there is no Paragraph 17.02, because neither arbitration nor any other dispute resolution process has been specified here in the Supplementary Conditions, then revise this to state "Add the following new Paragraph immediately after Paragraph 17.01" and revise the numbering accordingly].

#### 17.03 *Attorneys' Fees*

- A. For any matter subject to final resolution under this Article, the prevailing party shall be entitled to an award of its attorneys' fees incurred in the final resolution proceedings, in an equitable amount to be determined in the discretion of the court, arbitrator, arbitration panel, or other arbiter of the matter subject to final resolution, taking into account the parties' initial demand or defense positions in comparison with the final result.

### **ARTICLE 18—MISCELLANEOUS**

No suggested Supplementary Conditions in this Article.

**EXHIBIT A—SOFTWARE REQUIREMENTS FOR ELECTRONIC DOCUMENT EXCHANGE**

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NOT USED

**EXHIBIT B—FORESEEABLE BAD WEATHER DAYS**

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NOT USED

**EXHIBIT C—GEOTECHNICAL BASELINE REPORT SUPPLEMENT TO THE SUPPLEMENTARY CONDITIONS**

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NOT USED



**SECTION 00800  
ADDITIONAL SUPPLEMENTARY CONDITIONS**

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC C-700 (2018 Edition). All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

**ARTICLE 1 - DEFINITIONS**

SC-1.01A.19 Add the following sentence at the end of Paragraph 1.01.A.19:

The title of Architect as used in the Contract Documents also refers to the Engineer.

SC-1.01.A.29 Add the following sentence at the end of paragraph 1.01.A.29:

The terms "Owner" or "Town" as used in all of the Contract Documents shall refer to the Town of Mead.

SC-1.01A.34 Add the following sentence at the end of Paragraph 1.01.A.34:

The Project Manual also includes the bidding requirements, Contract Forms, Conditions of the Contract and Specifications.

SC-1.01A.50 Add the following sentence at the end of Paragraph 1.01.A.50:

Work shall also include the materials and equipment provided by Contractor or equipment as provided by Owner for installation by Contractor.

**ARTICLE 2 - PRELIMINARY MATTERS**

SC-2.02A. Delete Paragraph 2.02A in its entirety and insert the following in its place:

Owner shall furnish to Contractor two (2) complete sets of the Contract Documents for use in the execution of the Work. Additional copies will be furnished, upon request, at the cost of the reproduction.

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

SC-4.02 Add the following new subparagraph immediately after subparagraph 4.02.A.2:

3. Geotechnical reports are included in Section 01020-Geotechnical Report of the Project Manual.

SC-4.06 Delete Paragraphs 4.06.A and 4.06.B in their entirety and insert the following:

- A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.
- B. Not Used.

## ARTICLE 5 – BONDS AND INSURANCE

SC-5.01 Add the following new paragraph immediately after Paragraph 5.01.C:

- D. In addition to the performance bond specified in the General Conditions, Contractor shall furnish Labor and Material Payment Bonds and Insurance Certificates. Town and Engineer reserve the right to reject surety providing performance and payment bonds or other bonds as specified in the Contract Documents. Contract Agreement will not be executed until surety is acceptable to Town and Engineer.

SC-5.02.A Delete Paragraph 5.02. A in its entirety and insert the following:

- A. All bonds and insurance required by the Contact Documents to be purchased and maintained by the Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Colorado and must be countersigned by an agent who is a resident of the State of Colorado and must be accompanied by a certified copy of the authority to act for the surety and authority to transact business in the State of Colorado.

SC-5.04 Add the following new paragraphs immediately after Paragraph 5.04.B:

- C. The limits of liability for the insurance required by Paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:
  1. Workers' Compensation and related coverages under Paragraphs 5.04.A.1 and A.2 of the General Conditions:
    - a. State of Colorado Statutory
    - b. Applicable Federal: Statutory
    - c. Employer's Liability \$100,000 each accident  
\$500,000 disease, policy limit

\$100,000 disease, each employee

2. Contractor's General Liability under Paragraphs 5.04.A.3 through A.6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor:
  - a. General Aggregate \$1,000,000
  - b. Products Completed Operations Aggregate \$1,000,000
  - c. Personal and Advertising Injury \$500,000
  - d. Each Occurrence (Bodily Injury and Property Damage) \$500,000
  - e. Property Damage liability insurance will provide Explosion, Collapse, and Under-ground coverages where applicable.
  - f. Excess or Umbrella Liability Bodily Injury and Property Damage \$2,000,000 Retention \$10,000
3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:
  - a. Combined Single Limit of \$2,000,000

SC-5.06.A Delete Paragraph 5.06.A in its entirety and insert the following in its place:

- A. Contractor shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof. Contractor shall be responsible for any deductible or self-insured retention. This insurance shall:
  1. include the interests of Owner, Contractor, Subcontractors, Engineer, and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or loss payee;

2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss and damage to the Work, temporary buildings, false work, and materials and equipment in transit and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by these Supplementary Conditions.
3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
5. allow for partial utilization of the Work by Owner;
6. include testing and startup;
7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued; and
8. comply with the requirements of Paragraph 5.06.C of the General Conditions.

SC-5.06.B Delete Paragraph 5.06.B and replace with the following:

- B. Contractor shall purchase and maintain equipment breakdown insurance and any other additional property insurance required by Laws and Regulations, which insurance will include the interest of Owner, Contractor, Subcontractors, and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.

SC-5.07.B.1 Delete subparagraph 5.07.B.1 in its entirety and insert the following in its place:

1. loss due to business interruption, loss of use or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire

or other perils whether or not insured by Owner, but the foregoing shall not apply to liquidated damages Owner may claim as provided in the Agreement; and

SC-5.09.A Delete Paragraph 5.09.A in its entirety and insert the following in its place:

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

## ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

SC-6.06 Add the following new paragraph immediately after Paragraph 6.06.G:

- H. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by a particular Subcontractor of Supplier.

SC-6.10.A Delete Paragraph 6.10.A in its entirety and insert the following in its place:

- A. Owner is exempt from Colorado State Sales and Use Taxes on materials and equipment to be incorporated in the Work (said taxes shall not be included in the Contract Price or modifications to the Contract Price). Prior to purchase of any materials to be incorporated in the Work, the Contractor and any Subcontractor shall apply to the Colorado Department of Revenue for an exemption to be used for all materials and work done under this Contract (Form DR-0172 (09/21/06)). All purchases for the Work shall use the exemption from Sales and Use Taxes.

SC-6.10 Add the following new paragraph immediately after Paragraph 6.10.A:

- B. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

SC-6.17 Delete paragraphs 6.17.A, B, C, D, and E in their entirety and replace with the following:

- A. Contractor shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing subsequent submittals of Shop Drawings, Samples, or other items requiring approval and Contractor shall reimburse Owner for Engineer's charges for such time.
- B. In the event that Contractor requests a change of a previously approved item, Contractor shall reimburse Owner for Engineer's charges for its review time unless the need for such change is beyond the control of Contractor.

SC-6.20.A Delete Paragraph 6.20.A in its entirety and replace with the following:

- A. The Contractor agrees to indemnify and hold harmless Owner, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this contract, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of the Contractor, any subcontractor of the Contractor, or any officer, employee, representative, or agent of the Contractor or of any subcontractor of the Contractor, or which arise out of any workmen's compensation claim of any employee of the Contractor or of any employee of any subcontractor of the Contractor. The Contractor agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at the sole expense of the Contractor. The Contractor also agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

SC-6.20 Add the following new paragraph immediately after Paragraph 6.20.C:

- D. Governmental Immunities Act. The Owner is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any rights, immunities and protection provided by the Colorado Governmental Immunities Act (C.R.S. § 24-10-101 et seq.) as from time to time amended, or otherwise available to the Town, its officers, agents, employees, attorneys, engineers, planners, indemnifiers and insurers.

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

SC-10.03.A.4. Add the following new paragraph immediately after Paragraph 10.03.A.3:

4. At the time of execution of a Change Order or Written Agreement, Owner and Contractor expressly acknowledge that said Change Order or Written Agreement provides for a fair and equitable adjustment in Contract Price and/or Contract Time for the additions, deletions, or revisions in the Work as authorized by said Change Order or Written Agreement. Owner and Contractor further expressly acknowledge that later claims for adjustments to the Contract Price and/or Contract Time associated with said Change Order or Written Agreement are not valid.

SC-10.05.G Add the following new paragraphs immediately after Paragraph 10.05.F:

- G. Should Contractor cause damage to the Work or property of any separate contractor or subcontractor at the site, or should any claim arising out of Contractor's performance of the Work at the site be made by any separate contractor against the Contractor, Owner, or Engineer, the Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute by arbitration.

Contractor shall to the fullest extent permitted by Laws and Regulations, indemnify and hold Owner or Engineer 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 and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any separate contractor against Owner or Engineer.

## **ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES**

SC-12.01.A Add the following language at the end of the last sentence of Paragraph 12.01A:

Changes in the Contract Price or Contract Time, which are agreed to by the parties by an appropriate, duly executed Change Order or Written Amendment shall constitute a full and final change or amendment to the Contract for any and all changes of which the Contractor is, or should have been, aware as of the date of the executed Change Order.

Accordingly, execution of a Change Order or Written Amendment by the Contractor shall constitute a waiver on the part of the Contractor of any further claims for changes in the Contract Price or Contract Time, which occurred or may have occurred up through the date of any executed Change Order, whether such changes were expressly set forth in the executed change Order or not.

SC-12.03 Add the following new paragraph immediately after Paragraph 12.03.E:

- F. Any and all claims for delay damages pursuant to this Article shall be made based on written notice submitted by party making the claim to the Engineer and the other party to the Contract in accordance with provisions of Article 10. Such claims shall be made as such delays are affecting Work and shall not be deemed "cumulative." Failure to raise any such claims on a timely basis shall be construed as a waiver of such claims, individually.

SC-12.03 Add the following new paragraph immediately after Paragraph 12.03.F:

- G. Time is an essential condition of the Contract. Should Contractor fail to perform any of the individual Work tasks within the period of time stipulated by the milestone(s) in the Agreement, Contractor shall pay to Owner, as liquidated damages and not as a penalty, the amounts set forth in the Agreement unless extensions of time granted by Owner expressly, waive liquidated damages in writing.

In case of joint responsibility for delay in the final completion of the Work, where two or more separate contracts are in force at the same time and cover work at the same site, liquidated damages assessed against any one contractor will be based upon the individual responsibility of that contractor for the delay as determined by, and in the judgment of, Engineer.

Owner shall have the right to deduct the liquidated damages from any money in its hands, otherwise due, or to become due, to Contractor, or to sue for and recover compensation for damages for nonperformance of this Contract within the time stipulated.

SC-12.03 Add the following new paragraph immediately after Paragraph 12.03.G:

- H. The Owner and Contractor are both aware that a portion of the construction may be conducted during winter weather conditions, and that extremely variable and severe weather conditions are typical for the site of the Work. The Contractor expressly agrees that the Contract Price is based on completion of the Work within the times specified in the Agreement and under weather conditions typically encountered during the contemplated construction period at the site of the Work. For purposes of evaluating requests for extensions of time due to unusually severe weather conditions, the following conditions, and no others, will be considered unusually severe:
  - 1. Precipitation exceeding the historical mean for the months of the construction period by more than one standard deviation;
  - 2. For winter construction, average temperature less than the historical mean for the months of the construction period by more than one standard deviation;



3. For winter construction, number of days below freezing exceeding the historical mean for the months of the construction period by more than one standard deviation;
4. Isolated abnormal weather occurrences of a severely destructive nature, which in fact, cause such destruction at the site of the Work.
5. For the purpose of determining mean conditions, all available data contained in the records of the National Weather Service for reporting from, as well as data available from the State Climatologist for the same areas. The Contractor further agrees that should a request for time extension due to unusually severe weather conditions be made, the Contractor shall submit all necessary historical and detailed daily data during the construction period to support the claim.

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

SC-13.07 Add the following new paragraph immediately after Paragraph 13.07.E:

- F. Nothing in the General Conditions concerning the correction period shall establish a period of limitation with respect to any other obligation, which Contractor has under the Contract Documents. The establishment of a time period relates only to the specific obligations of the Contractor to correct the Work, and has no relationship to the time within which his obligations under the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish his liability with respect to his obligations other than to specifically correct the Work.

### **ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION**

SC-14.02.A.1 Add the following as the last sentence of subparagraph 14.02.A.1:

Payment for materials and equipment not incorporated in the Work, but delivered and suitably stored, shall be based only upon the actual cost of such materials to Contractor, and shall not include any overhead or profit to Contractor.

SC-14.02.C.1 Delete Paragraph 14.02.C.1 in its entirety and replaced with the following:

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

SC-14.02.D.3 Delete subparagraph 14.02.D.3 in its entirety and replace with the following:

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

SC-14.07.C.1 Delete subparagraph 14.07.C.1 in its entirety and replace with the following:

1. The Owner shall make final payment to the Contractor in accordance with Section 14.07 of the General Conditions, except final payment shall not be due until forty-five (45) days after Owner approval of the final Application for Payment, or unless final payment is subject to statutory retention for unresolved claims as provided by C.R.S. § 38-26-107.

## **ARTICLE 16 – DISPUTE RESOLUTION**

SC-16.01 Delete Paragraph 16.01 A, B and C in their entirety and insert the following:

- A. In the event of any dispute or claim arising under or related to this Agreement, the parties agree to use their best efforts to settle such dispute or claim through good faith negotiations with each other. If such dispute or claim is not settled through negotiations within 30 days after the earliest date on which one party notifies the other party in writing of its desire to attempt to resolve such dispute or claim by arbitration conducted under the auspices of the Judicial Arbitrator Group (JAG) in Denver, Colorado, or under the auspices of a recognized established mediation service within the State of Colorado. Such arbitration shall be conducted within 60 days following either party's written request therefore. If such dispute or claim is not settled through arbitration, then either party may institute a civil action in the Weld County District Court. In either event, the prevailing party shall be awarded attorney fees and costs.

## **ARTICLE 17 – MISCELLANEOUS**

SC-17.07 Add the following new paragraphs immediately after Paragraph 17.06:

- A. Owner is the Town of Mead acting through its Board of Trustees and their duly authorized agents. All notices, letters and communication directed to Owner shall be addressed and delivered to Town Engineer, who is designated representative (below).

Manny Windhorst  
441 Third Street  
P.O. Box 626  
Mead, CO 80542

- B. All duties and responsibilities assigned to Engineer in the Contract Documents, with the corresponding rights and authority will be assumed by The Town of Mead and their duly authorized agents. All notices, letters and communication directed to Engineer shall be addressed and delivered to The Town of Mead, 441 Third Street P.O. Box 626, Mead, CO 80542 Attention: Manny Windhorst.
- C. Owner shall furnish a Resident Project Representative and assistants to aid Engineer in carrying out responsibilities at the site. The duties, responsibilities, and limitations of authority of the Resident Project Representative are set forth in paragraph SC-9.03 of these Supplementary Conditions.
- D. The business addresses of Contractor given in contract for the work and Contractor's office at the site of the Work are hereby designated as the places to which all notices, letters, and other communication to Contractor will be delivered
- E. Either Owner, Subcontractor, or Engineer may change his address at any time by an instrument in writing delivered to the other parties.

SC-17.08 Add the following new paragraph immediately after Paragraph 17.07:

The cross-referencing or specification sections under the heading "Related Sections" and elsewhere within each specification section is intended as an aid to the Contractor and shall not relieve the Contractor from his responsibility to coordinate the Work under the Contract Documents. Listings of cross-references are not intended to be comprehensive. The omission of a cross-reference to an additional or related requirement shall not relieve the Contractor of his obligation to provide a complete Project.

**END OF SECTION**

**SECTION 01000  
GENERAL REQUIREMENTS**

**SECTION 01010  
SUMMARY OF WORK**

1.1. DESCRIPTION OF WORK

- A. This work shall consist of pavement marking and striping on Town of Mead streets and properties. This work consists of all labor, equipment, material, supplies, environmental protection, traffic control, sweeping and incidentals necessary to complete the work. Specific locations are further described in Section 3500, Project Maps and the Town's GIS hub at [Mead \(arcgis.com\)](https://arcgis.com).
- B. Protection and Restoration
  - 1. Replace to equal or better conditions all items removed and replaced or damaged during construction. Restore all areas disturbed to match surrounding surface conditions.
- C. Construction Hours
  - 1. Construction hours, except for emergencies, shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, unless otherwise authorized in writing by the Engineer.
  - 2. Any work performed by the Contractor outside of the construction hours, whether or not authorized by the Engineer, shall entitle the Owner to deduct from compensation due to the Contractor sufficient funds to cover the Owner's costs in providing field engineering and/or inspection services because of such work. The cost for field engineering and inspection shall be \$100.00 per hour.

1.2. NOTICES TO PRIVATE OWNERS AND AUTHORITIES

- A. Notify private owners of adjacent property, utilities, irrigation canal, and affected governmental agencies when prosecution of the Work may affect them.
- B. Give notification 48 hours in advance to enable affected persons to provide for their needs when it is necessary to temporarily deny access or services.
- C. Contact utilities at least 48 hours prior excavating near underground utilities.
- D. Contact all agencies at least 72 hours prior to start of construction. Notify all agencies of the proposed scope of work schedule and any items which would affect their daily operation.
- E. Manny Windhorst will be the ENGINEER (Project Engineer/Manager).

Manny Windhorst, Pavement Management Program Manager  
(970) 535-2661 (office) or (702) 533-2304 (mobile)  
[iwindhorst@townofmead.org](mailto:iwindhorst@townofmead.org)

**END OF SECTION**

## SECTION 01040 COORDINATION

### 1.1. GENERAL CONTRACTOR RESPONSIBILITIES

- A. Coordinate operations under contract in a manner which will facilitate progress of the Work. The Contractor shall also coordinate with any landscape contractor or utility whose Work is separate from the General Contractor's contract.
- B. Conform to the requirements of public utilities and concerned public agencies in respect to the timing and manner of performance of operations which affect the service of such utilities, agencies, or public safety.
- C. Coordinate operations under contract with utility work to allow for efficient completion of the Work.
- D. Coordinate all operations with the adjoining property owners, business owners, and surrounding neighborhoods to provide satisfactory access at all times and keep them informed at all times.

### 1.2. CONFERENCES

- A. A Pre-construction Conference will be held prior to the start of construction.
  - 1. Contractor shall participate in the conference accompanied by all major Subcontractors, including the Traffic Control Supervisor assigned to the project.
  - 2. Contractor shall designate/introduce Superintendent, and major Subcontractors supervisors assigned to project.
  - 3. The Engineer shall invite all utility companies and any other affected parties.
- B. Additional project coordination conferences may be held for coordination of the Work, refining project schedules, and utility coordination as needed.
- C. Engineer may hold coordination conferences to be attended by all involved when Contractor's operations affects, or is affected by, the work of others.
  - 1. Contractor shall participate in such conferences accompanied by Subcontractors as required by the Engineer.

### 1.3. PROGRESS MEETINGS

- A. Contractor and Engineer's Project Representatives shall schedule and hold regular progress meetings at least weekly, and at other times as requested by the Engineer or required by the progress of the Work.

- B. Attendance shall include:
1. Contractor and Superintendent.
  2. Owner's Representatives.
  3. Engineer and Project Representatives.
  4. Traffic Control Supervisor.
  5. Others as may be requested by Contractor, Engineer or Owner.
- C. Minimum agenda shall include:
1. Review of work progress since last meeting.
  2. Identification and discussion of problems affecting progress.
  3. Review of any pending change orders.
  4. Revision of Construction Schedule as appropriate.
- D. The Engineer and Contractor shall agree to weekly quantities at the progress meetings. The weekly quantity sheets shall be signed by both parties. These quantity sheets, when signed, shall be final and shall be the basis for the monthly progress pay estimates. This process ensures accurate monthly project pay estimates.

**END OF SECTION**



**SECTION 01310  
CONSTRUCTION SCHEDULES**

**1.1. GENERAL**

- A. The contractor shall prepare a detailed schedule of all construction operations and procurement after review of tentative schedule by parties attending the pre-construction conference. This schedule will show how the contractor intends to meet the milestones set forth.
  - 1. No work is to begin at the site until Owner's acceptance of the Construction Progress Schedule and Report of delivery of equipment and materials.

**1.2. FORMAT AND SUBMISSIONS**

- A. Prepare construction and procure schedules in a graphic format suitable for displaying scheduled and actual progress.
- B. Submit two copies of each schedule to Owner for review.
- C. Owner will return one copy to Contractor with revisions suggested or necessary for coordination of the Work with the needs of Owner or others.
- D. The schedule must show how the street, landscaping and various utility work will be coordinated.

**1.3. CONTENT**

- A. Construction Progress Schedule.
  - 1. Show the complete work sequence of construction by activity and location.
  - 2. Show changes to traffic control.
  - 3. Show project milestones
- B. Report of delivery of equipment and materials.
  - 1. Show delivery status of critical and major items of equipment and materials.
  - 2. Include a schedule which includes the critical path for Shop Drawings, tests, and other submittal requirements for equipment and materials, reference Section 01340.

**1.4. PROGRESS REVISIONS**

- A. Submit revised schedules and reports at weekly project coordination meetings when changes are foreseen, when requested by Owner or Engineer, and with each

application for progress payment.

- B. Show changes occurring since previous submission.
  - 1. 1. Actual progress of each item to date.
  - 2. 2. Revised projections of progress and completion.
- C. Provide a narrative report as needed to define:
  - 1. Anticipated problems, recommended actions, and their effects on the schedule.
  - 2. The effect of changes on schedules of others.

#### 1.5. OWNER'S RESPONSIBILITY

- A. Owner's review is only for the purpose of checking conformity with the Contract Documents and assisting Contractor in coordinating the Work with the needs of the Project.
- B. It is not to be construed as relieving Contractor from any responsibility to determine the means, methods, techniques, sequences and procedures of construction as provided in the General Conditions.

**END OF SECTION**

## SECTION 01410 TESTING

### 1.1. GENERAL

- A. Provide such equipment and facilities as the Engineer may require for conducting field tests and for collecting and forwarding samples. Do not use any materials or equipment represented by samples until tests, if required, have been made and the materials or equipment are found to be acceptable. Any product which becomes unfit for use after approval hereof shall not be incorporated into the work.
- B. All materials or equipment proposed to be used may be tested at any time during their preparation or use. Furnish the required samples without charge and give sufficient notice of the placing of orders to permit the testing. Products may be sampled either prior to shipment or after being received at the site of the work.
- C. Tests shall be made by an accredited testing laboratory selected by the Owner. Except as otherwise provided, sampling and testing of all materials and the laboratory methods and testing equipment shall be in accordance with the latest standards and tentative methods of the American Society for Testing Materials (ASTM).
- D. Where additional or specified information concerning testing methods, sample sizes, etc., is required, such information is included under the applicable sections of the Specifications. Any modification of, or elaboration on, these test procedures which may be included for specific materials under their respective sections in the Specifications shall take precedence over these procedures.

### 1.2. OWNER'S RESPONSIBILITIES

- A. Owner shall be responsible for and shall pay all costs in connection with testing for the following:
  - 1. Tests not called for by the Specifications of materials delivered to the site but deemed necessary by Owner.

### 1.3. CONTRACTOR'S RESPONSIBILITIES

- A. In addition to those inspections and tests called for in the General Conditions, Contractor shall also be responsible for and shall pay all costs in connection with testing required for the following:
  - 1. All performance and field testing specifically called for by the specifications.
  - 2. All retesting for Work or materials found defective or unsatisfactory, including tests covered under 1.2 above.
  - 3. All minimum call out charges or stand by time charges from the tester due to the Contractor's failure to pave, pour, or fill on schedule for any reason

except by action of the Engineer.

- B. Contractor shall notify the Project Engineer 48 hours prior to performing an operation that would require testing.

#### 1.4. CONTRACTOR'S QUALITY CONTROL SYSTEM

- A. General: The Contractor shall establish a quality control system to perform sufficient inspection and tests of all items of Work, including that of his subcontractors, to ensure conformance to the functional performance of this project. This control shall be established for all construction except where the Contract Documents provide for specific compliance tests by testing laboratories or engineers employed by the Owner. The Contractor's control system shall specifically include all testing required by the various sections of these Specifications.
- B. Superintendence: The Contractor shall employ a full time Superintendent to monitor and coordinate all facets of the Work. The Superintendent shall have adequate experience to perform the duties of Superintendent.
- C. Contractor's quality control system is the means by which he assures himself that his construction complies with the requirements of the Contract Documents. Controls shall be adequate to cover all construction operations and should be keyed to the proposed construction schedule.
- D. Records: Maintain correct records on an appropriate form for all inspections and tests performed, instructions received from the Engineer and actions taken as a result of those instructions. These records shall include evidence that the required inspections or tests have been performed (including type and number of inspections or test, nature of defects, causes for rejection, etc.) proposed or directed remedial action, and corrective action taken. Document inspections and tests as required by each section of the Specifications. Provide copies to Engineer weekly.

**END OF SECTION**

**SECTION 01510  
TEMPORARY UTILITIES**

**1.1. UTILITIES**

- A. Furnish all utilities necessary for construction.
- B. Make arrangements with Little Thompson Water District as to the amount of water required and time when water will be needed.
  - 1. Meters may be obtained through Little Thompson Water District for the Town of Mead.
  - 2. Unnecessary waste of water will not be tolerated.
- C. Furnish necessary water trucks, pipes, hoses, nozzles, and tools and perform all necessary labor.

**1.2. SANITARY FACILITIES**

- A. Furnish temporary sanitary facilities at each site for the needs of construction workers and others performing work or furnishing services on the Project.
- B. Properly maintain sanitary facilities of reasonable capacity throughout construction periods.
- C. Enforce the use of such sanitary facilities by all personnel at the site.
- D. Obscure from public view to the greatest practical extent.

**END OF SECTION**

**SECTION 01560  
TEMPORARY CONTROLS**

1.1. NOISE CONTROL

- A. Take reasonable measures to avoid unnecessary noise when construction activities are being performed in populated areas.
- B. Construction machinery and vehicles shall be equipped with practical sound muffling devices, and operated in a manner to cause the least noise consistent with efficient performance of the Work.
- C. Cease operation of all machinery and vehicles between the hours of 6:00 p.m. and 7:00 a.m.

1.2. DUST CONTROL

- A. Dusty materials in piles or in transit shall be covered when necessary to prevent blowing.
- B. Earth and road surfaces subject to dusting due to construction activities and detouring of traffic shall be kept moist with water or by application of a chemical dust suppressant.
  - 1. Chemical dust suppressant shall not be injurious to existing or future vegetation.

1.3. POLLUTION CONTROL

- A. Prevent the pollution of drains and water courses by sanitary wastes, concrete, sediment, debris and other substances resulting from construction activities.
  - 1. Retain all spent oils, hydraulic fluids and other petroleum fluids in containers for disposal off the site.
  - 2. Prevent sediment, debris or other substances from entering sanitary sewers, storm drains and culverts.

1.4. EROSION CONTROL

- A. Take such measures as are necessary to prevent erosion of soil that might result from construction activities.
  - 1. Measures in general will include:
    - a. Control of runoff.
    - b. Trapping of sediment.
    - c. Minimizing area and duration of soil exposure.
    - d. Temporary materials such as hay bales, sand bags, plastic sheets,

riprap or culverts to prevent the erosion of banks and beds of watercourses or drainage swales where runoff will be increased due to construction activities.

- B. Preserve natural vegetation to greatest extent possible.
- C. Locate temporary storage and route construction traffic so as to preserve vegetation and minimize erosion.

#### 1.5. TRAFFIC CONTROL

- A. Maintain traffic control in accordance with the “Manual of Uniform Traffic Control Devices” (MUTCD) and the current “Town of Mead Design Standards and Construction Specifications.”

#### 1.6. HAUL ROUTES

- A. The Engineer reserves the right to set haul routes in order to protect pavements, both new and old, from heavy loads.
- B. These pavements may include, but are not limited to, recently constructed pavements, recently overlaid pavements, and/or pavements whose condition would be significantly damaged by heavy loads.

**END OF SECTION**

**SECTION 01700  
CONTRACT CLOSEOUT**

1.1. CLEANING AND RESTORATION

- A. Return the premises and adjacent properties to conditions existing or better than existing at the time the work was begun. This will include providing labor, equipment and materials for cleaning, repairing and replacing facilities damaged or soiled during construction. The Engineer will be the judge of the degree of restoration required.

**END OF SECTION**



**SECTION 01800  
METHOD OF MEASUREMENT AND BASIS OF PAYMENT**

1.1. DEFECTIVE WORK

- A. Owner will not pay for defective work and will not pay for repair or additional work required to bring the project to a point of acceptance.

1.2. BID PRICE

- A. The Total Bid Price covers all Work required by the Contract Documents. All work not specifically set forth as a pay item in the Bid Form shall be considered a subsidiary obligation of Contractor and all costs in connection therewith shall be included in the prices bid for the various items of Work.
- B. Prices shall include all costs in connection with the proper and successful completion of the Work, including furnishing all materials, equipment and tools; and performing all labor and supervision to fully complete the Work.
- C. Unit prices shall govern over extensions of sums.
- D. Unit prices shall not be subject to re-negotiation.

1.3. ESTIMATED QUANTITIES

- A. All quantities stipulated in the Bid Form at unit prices are approximate and are to be used only as a basis for estimating the probable cost of the Work and for the purpose of comparing the bids submitted to the Work. The basis of payment shall be the actual amount of materials furnished and Work done.
- B. Contractor agrees that he will make no claim for damages, anticipated profits, or otherwise on account of any difference between the amount of Work actually performed and materials actually furnished and the estimated amount therefor.

**END OF SECTION**

**SECTION 02000  
PROJECT SPECIFICATIONS**

The Colorado Division of Transportation "Standard Specifications for Road and Bridge Construction", 2021, and the current Town of Mead "Design Standards and Construction Specifications" (hereafter referred to as the "Standard Specifications") are made a part of this Contract by this reference, except as revised herein, and are hereby adopted as the minimum Standard Specifications of Compliance for this project.

**INDEX OF REVISIONS BY SECTION**

- 104 Traffic and Parking Control
- 105 Control of Work
- 108 Prosecution and Process
- 202 Removal of Structures and Obstructions
- 626 Mobilization
- 627 Pavement Marking
- 630 Construction Zone Traffic Control

**REVISION OF SECTION 104  
TRAFFIC AND PARKING CONTROL**

Section 104 of the Standard Specifications is hereby revised as follows:

Subsection 104.04 shall include the following.

It shall be the Contractor's responsibility to clear parking from the streets when such parking will interfere with the work. Prior to work that requires the street(s) to be closed to parking and/or traffic, the street(s) shall be posted for "NO PARKING". The placement of these signs shall take place at least 24 hours prior to the commencement of work and shall clearly show the day, date and times that the message on the sign is in effect. "NO PARKING" signs shall remain in place until the street is opened to traffic and all clean-up operations completed.

All information on the "NO PARKING" signs, with the exception of the date, shall be in block letters permanently affixed to the sign. Any information added to a sign, such as dates, shall be clearly legible and written in block style letters. The "NO PARKING" signs shall be in effect for one or two days only.

Any work done by the Contractor without traffic control will not be paid for under the terms of this Contract.

The Contractor will not be paid for traffic control costs incurred during Contractor caused delays.

At or near the end of each workday, a representative of the Contractor, the Traffic Control Supervisor, and the Engineer will meet to discuss the progress of the work and the placement of traffic control devices including "NO PARKING" signs. Any necessary adjustments shall be made. The Contractor shall also review at this time with the Engineer the proposed means of handling parking and traffic control for upcoming work. It is the responsibility of the Contractor to minimize any inconvenience to the public as a result of this work.

The Contractor shall always maintain pedestrian and vehicular access to all businesses within the project.

Pedestrian access must be clearly delineated and buffered from construction activities at all times and may include construction and installation of temporary ramps and wooden walkways as necessary.

Any changes in the traffic control, including additional signs, barricades, and/or flaggers needed in the field shall be immediately implemented as directed by the Engineer.

The cost for traffic control is covered in "Revision of Section 630, Construction Zone Traffic Control" found herein.

**END SECTION 104**

## **REVISION OF SECTION 105 CONTROL OF WORK**

Section 105 of the Standard Specifications is hereby revised as follows:

### **COOPERATION BETWEEN CONTRACTORS**

Subsection 105.11 shall include the following:

Utilities, Public Works, and utility contractors may perform work related to the project within or near the limits of this project. The Contractor shall conduct the work without interfering or hindering the progress or completion of the work being performed by other contractors. The Contractor shall coordinate extensively with these entities to minimize traffic control and scheduling conflicts, and ensure timely completion of all the work.

### **INSPECTION AND TESTING OF WORK**

Subsection 105.15 shall include the following:

The Contractor shall keep the Engineer informed of his or her future construction operations to facilitate scheduling of required inspection, measuring for pay quantities, and sampling. The Contractor shall notify the Engineer a minimum of 24 hours in advance of starting any construction operation that will require inspection, measuring for pay quantities, or sampling. Failure of the Contractor to provide such notice will relieve the owner and the Engineer from any responsibility for additional costs or delays caused by such failure.

Inspection of the work or materials shall not relieve the Contractor of any of his or her obligations to fulfill his or her contract as prescribed. Work and materials not meeting specifications shall be corrected and unsuitable work or materials may be rejected, notwithstanding that such work or materials have been previously inspected by the Engineer or that payment therefore has been included in the progress estimate.

### **MAINTENANCE DURING CONSTRUCTION**

Subsection 105.19 shall include the following:

The roadway area, including curb, gutter, and sidewalk, adjacent to and through the construction area shall be cleaned of debris by the Contractor at the earliest opportunity, but in no case shall the area be left uncleaned after the completion of the day's work. It shall be the Contractor's responsibility to provide the necessary manpower and equipment to satisfactorily clean the roadway area.

The Contractor shall maintain the streets during the construction process as prescribed above.

All cost of maintaining the work during construction and before the project is accepted

will not be paid for separately but shall be included in the work.

**END SECTION 105**

## REVISION OF SECTION 108 PROSECUTION AND PROGRESS

Section 108 of the Standard Specifications is hereby revised as follows:

### SCHEDULE

Subsection 108.03 shall include the following:

A schedule of work shall be provided at the pre-construction conference, and shall include number of working days per area to complete all unit work items covered by the contract. Vicinity maps of each area are included in Section 03500, Project Maps. The schedule should take any priorities into consideration. Streets designated for chip Seal/Slurry Seal and removal and replacement will be striped after those projects are completed, they are anticipated to be completed in late summer of 2024. The schedule should also include projected start and end dates. Town quantities are described in Section 02500, Quantity Estimates. Individual street section quantities are described in section 03500, Project Maps and on the Mead GIS database. [Mead \(arcgis.com\)](http://Mead(arcgis.com))

Prior to award, mutually acceptable milestones shall be determined by the Contractor and the Town based on the schedule of working days discussed above.

### LIMITATION OF OPERATIONS

Subsection 108.05 shall include the following:

**The work shall be completed prior to December 31, 2024.**

### DETERMINATION AND EXTENSION OF TIME

Subsection 108.08 shall include the following:

Work hours shall be 7:00 a.m. to 6:00 p.m., Monday through Friday, excluding holidays, or as approved by the Engineer. Construction on arterial roadways are limited to the hours of 8:30 a.m. to 2:30 p.m., unless otherwise approved by the Engineer.

**All work is to be completed in thirty (30) consecutive working days.**

### FAILURE TO COMPLETE WORK ON TIME

Subsection 108.09 shall include the following:

Failure to meet the agreed upon milestones or fully complete the project in Thirty (30) working days for the Town shall result in damages assessed against the Contractor.

At the Town's option, liquidated damages in the amount of \$900.00 per day may be retained from any monies due the Contractor, or the Town may retain an additional contractor(s) to complete the work, or portion thereof, and retain any costs incurred above and beyond the bid prices of the Contractor from any monies due the Contractor in lieu of liquidated damages.

**END SECTION 108**

**REVISION OF SECTION 202  
REMOVAL OF STRUCTURES AND OBSTRUCTIONS**

Section 202 of the Standard Specifications is hereby revised as follows:

**DESCRIPTION**

Subsection 202.01 is revised to include the following:

This work shall consist of the removal and disposal of existing pavement markings and striping by methods that do not materially alter or damage the surface or texture of the pavement, to the satisfaction of the Engineer. Existing Striping or Markings that cannot be properly remarked or overlaid will be identified for removal by the Engineer.

The Contractor shall haul and dispose of all removed material.

**CONSTRUCTION REQUIREMENTS**

Subsection 202.05 is revised to include the following:

At the direction of the Engineer Pavement markings shall be removed from the pavement to the maximum extent possible, by methods that do not materially alter or damage the surface or texture of the pavement, to the satisfaction of the Engineer. The proposed method of pavement marking removal shall be designated by the Contractor at the Pre-construction Conference and approved by the Engineer. Operations that do not produce the desired result, damage the pavement, or may constitute a hazard to the traveling public will not be permitted. Materials deposited on the pavement because of removal of pavement markings shall be promptly removed so as not to interfere with traffic or roadway drainage.

**METHOD OF MEASUREMENT**

Subsection 202.11 shall include the following:

Removal of pavement marking will be measured in square feet, completed and accepted. Sandblasting of pavement that is to be covered with pavement marking material will be measured as the same area as measured for the pavement marking for which the sandblasting is required.



**BASIS OF PAYMENT**

Subsection 202.12 is revised to include the following:

The accepted quantities will be paid for at the contract unit price for each of the pay items listed below that appear in the bid schedule.

Payment will be made under:

| <u>Pay Item</u>                           | <u>Unit</u> |
|---|-------------|
| Removal of Pavement Striping and Markings | SF          |

The above prices and payments shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in removing pavement markings and striping.

**END SECTION 202**

**REVISION OF SECTION 626  
MOBILIZATION**

Section 626 of the Standard Specifications is hereby revised as follows:

**DESCRIPTION**

Subsection 626.01 shall be revised as follows:

This work consists of the mobilization of personnel, equipment and supplies at the project site in preparation for work on the project.

**BASIS OF PAYMENT**

Subsection 626.02

Payments for mobilization will be made as follows:

Payment will be made under:

| <u>Pay Item</u> | <u>Unit</u> |
|-----------------|-------------|
| Mobilization    | LS          |

**END OF SECTION 626**

**REVISION OF SECTION 627  
PAVEMENT MARKINGS**

Section 627 of the Standard Specifications is hereby revised as follows:

**DESCRIPTION**

Subsection 627.01 shall be revised as follows:

This work consists of furnishing and applying pavement marking, and furnishing, installing, and removing temporary pavement marking in accordance with these specifications, the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), the Colorado supplement thereto, and in conformity to the lines, dimensions, patterns, locations and details shown on the plans or established.

**MATERIALS**

Subsection 627.02 shall include the following:

|   |        |
|---|--------|
| Paint   | 708.05 |
| Glass Beads                                       | 713.08 |
| Modified Epoxy Pavement Marking Material          | 713.17 |
| Preformed Thermoplastic Pavement Marking Material | 713.14 |

**CONSTRUCTION REQUIREMENTS**

Subsection 627.03 shall include the following:

All pavement markings shall be placed in accordance with the following requirements. When the term “full compliance” is used, it means the pavement markings shall meet the requirements of Standard Plan S-627-1.

Permanent pavement markings shall be installed by the contractor. The placement of the pavement markings shall be in accordance to the striping plans provided by the Engineer in section 03500 Project Maps and in accordance with the Towns GIS data provided at [Mead \(arcgis.com\)](http://Mead(arcgis.com)), located in Mead pavement markings. For locations where pavement marking plans are not provided in the Contract or on the GIS website, the Contractor shall refer to the Tabulation of Pavement Markings and match existing pavement marking locations. If there is a conflict or error on the striping plans, data tables, or GIS display, the contractor is required to contact the Engineer.

## METHOD OF MEASUREMENT

Subsection 627.12 shall include the following:

The types of pavement marking described herein will be measured by the following units, complete in place and accepted.

Pavement marking in paint will be measured by the number of gallons used or linear feet installed including glass beads as described in pay items. Material used in excess of coverage limit prescribed will not be measured.

Modified epoxy pavement marking, polyurea, and methyl methacrylate pavement marking will be measured by the total number of gallons of components A and B used including glass beads. Material used in excess of coverage limit prescribed will not be measured.

Thermoplastic pavement marking, preformed thermoplastic pavement marking, and preformed plastic pavement marking will be measured by the square foot. The unmarked spaces between markings will not be included in the overall measurement.

Painted pavement word and symbol markings will be measured by the square foot. The unmarked spaces within these markings will not be included in the measurement.

## BASIS OF PAYMENT

Subsection 627.13

The accepted quantities will be paid for at the contract price per unit of measurement for each of the pay items listed below that appear in the bid schedule.

Payment will be made under:

| <u>Pay Item</u>                           | <u>Unit</u> |
|---|-------------|
| Parking lot striper                       | LF          |
| Pavement Marking Paint Long Line          | Gal         |
| Pavement Marking Epoxy Long line          | Gal         |
| Pavement Marking Paint Crosswalk/Stop Bar | SF          |

|                                    |    |
|------------------------------------|----|
| Pavement Marking Paint Word/Symbol | SF |
|------------------------------------|----|

|   |    |
|---|----|
| Preformed Thermoplastic Pavement Markings | SF |
|---|----|

The above prices and payments shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in the installation of permanent striping and markings.

**END OF SECTION 627**

## REVISION OF SECTION 630 CONSTRUCTION ZONE TRAFFIC CONTROL

Section 630 of the Standard Specifications is hereby revised as follows:

### DESCRIPTION

Subsection 630.01 shall be revised as follows:

This work shall consist of furnishing, installing, moving maintaining and removing temporary traffic signs, advance warning arrows panels, barricades, channelizing devices, and delineators as required by the latest revision of the "Manual on Uniform Traffic Control Devices for Streets and Highways" (MUTCD), the current Town of Mead "Design Standards and Construction Specifications".

When a device is not in use, the Contractor shall remove it from the project for the period it is not needed.

Devices temporarily not in use shall, as a minimum, be removed from the area.

Traffic control devices shall be placed and/or stored in the Town right-of-way in such a manner that minimizes the hazards to pedestrians, bicyclists and vehicles.

Traffic control devices shall be removed from the site immediately upon completion of the work for any street(s).

### MATERIALS

Subsection 630.02 shall include the following:

All traffic control devices placed for this project must meet or exceed the minimum standards set forth in the MUTCD. All traffic control devices shall be clean and in good operating condition when delivered and shall be maintained in that manner on a daily basis. All traffic control devices shall be clearly marked and free of crossed out information or any other form of defacement that detracts from the purpose for which they are intended (i.e. crossed out information, information written in long-hand style, etc.)

Additionally, any sign blank with sign faces on both sides must have the back sign face covered when in use to avoid confusion to motorists traveling in the opposite direction and other potentially affected parties, such as residents affected by any information the sign may present.

## CONSTRUCTION REQUIREMENTS

Subsection 630.10 shall be revised as follows:

### TRAFFIC CONTROL PLAN

Traffic control through the construction areas is the responsibility of the Contractor.

For all locations, a Traffic Control Plan shall be prepared. Typical Plans are permitted for residential locations. The Traffic Control Plans shall be submitted for approval to the Engineer two working days prior to the commencement of work. (Note: Traffic Control Plans for work done on Monday and Tuesday shall be submitted the previous Friday.) Full road closure plans shall be submitted one week in advance.

No phase of the construction shall start until the Traffic Control Plan has been approved. Failure to have an approved Traffic Control Plan shall constitute cause for the Town to stop work, as well as the Contractor's forfeiture of payment for all work and materials at that location, with no adjustment in the contract time.

All costs associated with Traffic Control Plan preparation will not be measured or paid for separately, but shall be considered incidental to the Work.

The Traffic Control Plan shall include, as a minimum, the following:

(1) A detailed diagram which shows the location of all sign placements, including advance construction signs (if not previously approved) and speed limit signs; method, length and time duration for lane closures, and location of flag persons.

(2) A tabulation of all traffic control devices shown on the detailed diagram including, but not limited to: construction signs; vertical panel; vertical panel with light; Type I, Type II, and Type III barricades; cones; drum channelizing devices; advance warning flashing or sequencing arrow panel. Certain traffic control devices may be used for more than one operation or phase. However, all devices required for any particular phase must be detailed and tabulated for each phase.

(3) Number of flaggers to be used.

(4) Parking Restrictions to be in effect.

Approval of the proposed method of handling traffic does not relieve the Contractor of liability specifically assigned to him under this contract.

Subsection 630.11 shall be revised as follows:

### TRAFFIC CONTROL MANAGEMENT

Traffic Control Management shall be performed by a Traffic Control Supervisor (TCS). The TCS(s) shall possess a current American Traffic Safety Services Association (ATSSA) certification as a Worksite Traffic Control Supervisor or Colorado Contractor's Association (CCA) certification as a Traffic Control Supervisor. (Proof of certification shall be presented to the Program Manager, and when requested by a Town representative, for each TCS utilized on this project.)

The TCS shall have a minimum of one-year experience as a certified TCS. Qualifications shall be submitted to the Engineer for approval a minimum of one week prior to commencement of the work.

The TCS shall be equipped with a cellular phone.

The TCS's duties shall include, but not be limited to:

1. Preparing, revising and submitting Traffic Control Plans as required.
2. Direct supervision of project flaggers.
3. Coordinating all traffic control related operations, including those of the Subcontractors and suppliers.
4. Coordinating project activities with appropriate police and fire control agencies, school districts and other affected agencies and parties prior to construction.
5. Maintaining a project traffic control diary which shall become part of the Town's project records.
6. Inspecting traffic control devices on every calendar day for the duration of the project.
7. Ensuring that traffic control devices are functioning as required.
8. Overseeing all requirements covered by the plans and specifications which contribute to the convenience, safety and orderly movement of traffic.
9. Flagging.
10. Setting up traffic control devices.

Notification of residents and businesses shall be the responsibility of the TCS and shall consist of distributing letters indicating the nature of the work to be completed, any special instructions to the residents (i.e. limits on lawn watering during sealing, etc.), the dates and times of the work, and the parking and access restrictions that will apply, as well as thorough information placed on "NO PARKING" signs. Letters shall be submitted with the Traffic Control Plans for approval. Approved letters shall be distributed a minimum of 24 hours prior to the commencement of work. (Note: The time frame



criteria for distributing letters are the same as for posting "NO PARKING" signs.) The cost for preparing and distributing the letters shall be included in the cost of the Work.

Traffic control management shall be maintained on a 24 hour per day basis. The Contractor shall make arrangements so that the Traffic Control Supervisor or their approved representative will be available on every working day, "on call" at all times and available upon the Engineer's request at other than normal working hours.

All traffic control devices shall be placed under the supervision of a Traffic Control Supervisor.

The Traffic Control Supervisor shall have up to date copies of the MUTCD pertaining to traffic controls for street and highway construction, available at all times.

## METHOD OF MEASUREMENT

Subsection 630.17 shall be revised as follows:

All costs for Traffic control shall be considered a subsidiary obligation of the Contractor in connection with the various items of the Work, and no measurement or payment shall be made separately for the traffic control associated with pavement marking installation.

The cost of all labor, materials, tools, equipment, incidentals, and work involved in traffic control operations during installation of pavement markings shall be considered incidental to the work being done and shall not be measured and paid for separately.

**END SECTION 630**

**SECTION 02500  
TOWN OF MEAD QUANTITY ESTIMATE**

This work shall consist of placement of Pavement Markings and Striping on designated streets in the Town of Mead. Specific locations are described herein; however, additional quantities are included in the Bid Schedule for locations not yet identified at the time of the bid.

All quantities stipulated in the Bid Schedule at unit prices are approximate and are to be used only as a basis for estimating the probable cost of the Work and for the purpose of comparing the bids submitted to the Work. The basis of payment shall be the actual amount of materials furnished and Work done.

Contractor agrees to make no claim for damages, anticipated profits, or otherwise on account of any difference between the amount of Work actually performed and materials actually furnished and the estimated amount therefor.

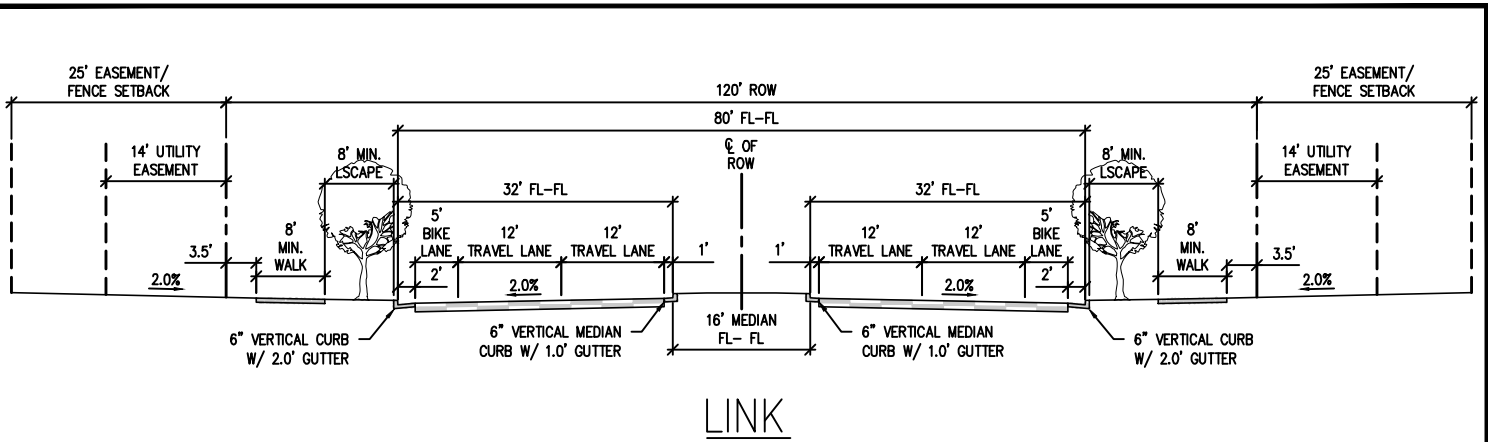
| Description                               | Unit | Quantity |
|---|------|----------|
| Removal of Pavement Striping and Markings | SF   | 250      |
| Mobilization                              | LS   | 1        |
| Parking lot Striper 4" White Paint        | LF   | 1700     |
| Pavement Marking Paint Long Line          | Gal  | 966      |
| Pavement Marking Epoxy Long Line          | Gal  | 310      |
| Pavement Marking Paint Crosswalk/Stop Bar | SF   | 798      |
| Pavement Marking Paint Word/Symbol        | SF   | 850      |
| Preformed Thermoplastic Pavement Markings | SF   | 450      |

**SECTION 02500  
TOWN OF MEAD QUANTITY ESTIMATE**

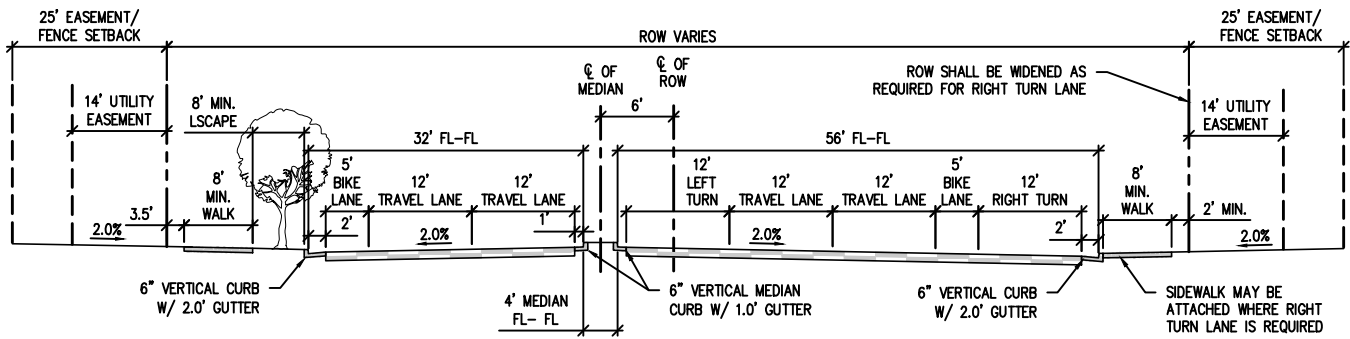
| Location  | Gallons | Stop Bar (SF) | Arrow (SF) | Combo Arrow (SF) | ONLY (SF) | Bike/Arrow (SF) | ADA (SF) | 4" White (LF) | X-Walk (SF) |
|---|---------|---------------|------------|------------------|-----------|-----------------|----------|---------------|-------------|
| WCR 38 E/O WCR 7                                | 60      | 30            | 62         |                  | 45        |                 |          |               |             |
| WCR 36 E/O WCR 7                                | 64      | 60            | 62         | 55               |           |                 |          |               |             |
| Margil Rd N/O WCR 38                            | 5       | 30            | 31         |                  | 22        | 24              |          |               |             |
| WCR34 W/O WCR5                                  | 23      | 30            |            |                  |           |                 |          |               |             |
| WCR34 E/O WCR5 to Ginger Ave                    | 25      | 30            |            |                  |           |                 |          |               |             |
| WCR 34 east of WCR 7 to I25                     | 99      |               |            |                  |           |                 |          |               |             |
| WCR 32 east of WCR 7                            | 83      | 62            |            |                  |           |                 |          |               |             |
| WCR 32 east of Frontage Road                    | 101     | 30            |            |                  |           |                 |          |               |             |
| WCR 32 east of Frontage Road (Epoxy)            | 20      |               |            |                  |           |                 |          |               |             |
| WCR 28 east of WCR 7 Ending at I25 (Epoxy)      | 65      | 30            |            |                  |           |                 |          |               |             |
| WCR 5.5 south of Hwy 66 to Saddle Drive (Epoxy) | 32      |               |            |                  |           |                 |          |               |             |
| WCR 7 south of Hwy 66 to High School            | 119     | 60            | 186        |                  | 135       |                 |          |               |             |
| WCR 7 north of Hwy 66 to WCR 34                 | 148     | 26            |            |                  |           |                 |          |               | 60          |
| WCR 7 north of WCR 34 to WCR 38                 | 25      | 40            | 31         | 55               |           |                 |          |               | 60          |
| WCR 34.5 west of WCR 7 to WCR 5                 | 71      | 50            |            |                  |           |                 |          |               | 100         |
| WCR 5 north of WCR 34.5 to WCR 36 (Epoxy)       | 66      |               |            |                  |           |                 |          |               |             |
| WCR 5 south of WCR 34.5 to WCR 34 (Epoxy)       | 44      | 30            |            |                  |           |                 |          |               |             |
| WCR 5 south of WCR 34 to Hwy 66                 | 5       | 30            |            |                  |           |                 |          |               |             |
| WCR 9.5 north from WCR 28 to Hwy 66             | 68      |               | 31         |                  |           |                 |          |               |             |
| WCR 9.5 north from Hwy 66 to Knights Way        | 67      | 40            |            |                  |           |                 |          |               |             |
| 4th Street Welker to Martin Ave                 |         |               |            |                  |           |                 | 112      | 1600          |             |
| Mead Street south of SH 66 to end (Epoxy)       | 28      | 60            | 62         |                  | 45        |                 |          |               |             |
| Deere Ct S/O HWY66 (Epoxy)                      | 5       |               |            |                  |           |                 |          |               |             |
| CR13 SH66 1000' N/O CR32                        | 6       |               |            |                  |           |                 |          |               |             |

**END OF SECTION**

**SECTION 03000  
DETAILS**



LINK



INTERSECTION

ROADWAY WIDTH: 80' BETWEEN INTERSECTIONS; WIDEN AT INTERSECTION AS NEEDED.

RIGHT OF WAY WIDTH: 120' MIN. BETWEEN INTERSECTIONS; WIDEN AT INTERSECTIONS AS NEEDED.

TRAVEL LANES: 4 LANES AT 12' WIDE (EXCLUSIVE OF GUTTER OR MIN. 12' WHERE NO GUTTER).

LEFT TURN LANE: 12' WIDE, REQUIRED AT INTERSECTION.

BIKE LANES: 2 LANES, 5' WIDE MIN. (EXCLUSIVE OF GUTTER).

PARKING: NONE

SIDEWALK: 8' MIN. WIDE IF DETACHED BY AT LEAST 8'. ADDITIONAL WIDTH MAY BE REQUIRED FOR HIGHER PEDESTRIAN TRAFFIC IN AND LEADING TO ACTIVITY AREAS.

MEDIAN: 16' WIDE (FLOWLINE TO FLOWLINE), 4' IN LEFT TURN AREA. COLORED CONCRETE OR LANDSCAPED.

DESIGN SPEED: 50 MPH

POSTED SPEED: 40 MPH

ACCESS: NO PRIMARY ACCESS TO INDIVIDUAL LOTS PERMITTED. 1/2 MILE SPACING TO SIGNALIZED INTERSECTIONS IS REQUIRED.

CONTINUITY: UNLIMITED.

FENCES: FENCES SHALL BE PLACED OUTSIDE OF THE LANDSCAPING AND PEDESTRIAN EASEMENT. (25' FROM ROW)

LANDSCAPING: TREE LAWN, MEDIAN, AND BUFFER AREA LANDSCAPING MAINTENANCE SHALL BE THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER OR HOA.

CURB AND GUTTER: VERTICAL CURB AND GUTTER.

CR 9.5 (HIGH PLANS BOULEVARD): ADDITIONAL REQUIREMENTS MAY APPLY. SEE CDOT FOR SPECIFIC DESIGN CRITERIA.

SCALE: NTS

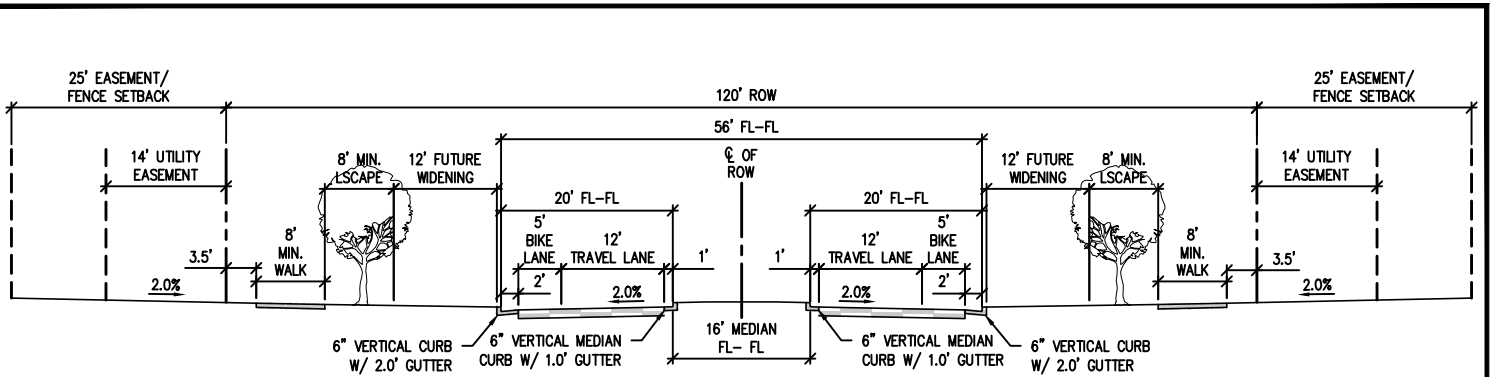


TOWN OF MEAD STANDARD DESIGN CRITERIA

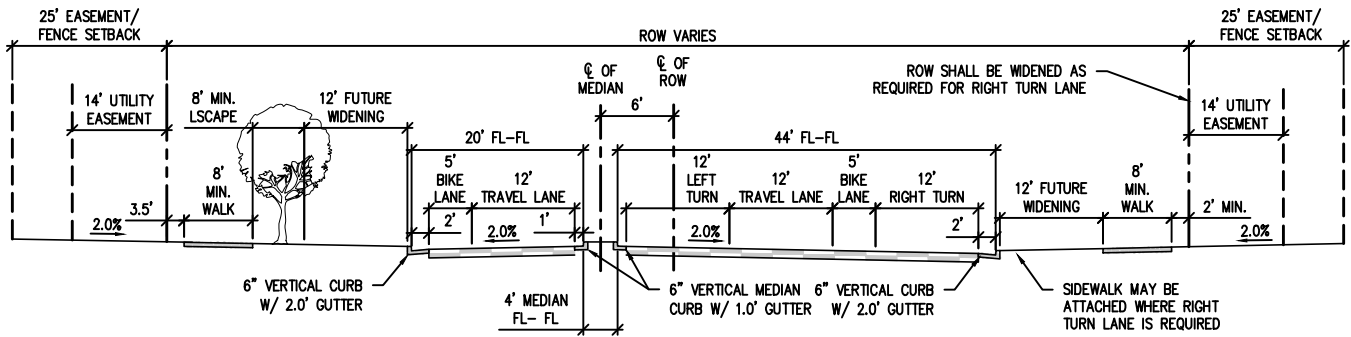
4-LANE MAJOR ARTERIAL STREET

D3.01A

DATE: 04/2021



LINK



INTERSECTION

ROADWAY WIDTH: 56' BETWEEN INTERSECTIONS; WIDEN AT INTERSECTION AS NEEDED.

RIGHT OF WAY WIDTH: 120' MIN. BETWEEN INTERSECTIONS; WIDEN AT INTERSECTIONS AS NEEDED.

TRAVEL LANES: 2 LANES AT 12' WIDE (EXCLUSIVE OF GUTTER OR MIN. 12' WHERE NO GUTTER).

LEFT TURN LANE: 12' WIDE, REQUIRED AT INTERSECTION.

BIKE LANES: 2 LANES, 5' WIDE MIN. (EXCLUSIVE OF GUTTER).

PARKING: NONE

SIDEWALK: 8' MIN. WIDE IF DETACHED BY AT LEAST 8'. ADDITIONAL WIDTH MAY BE REQUIRED FOR HIGHER PEDESTRIAN TRAFFIC IN AND LEADING TO ACTIVITY AREAS.

MEDIAN: 16' WIDE (FLOWLINE TO FLOWLINE), 4' IN LEFT TURN AREA. COLORED CONCRETE OR LANDSCAPED.

DESIGN SPEED: 50 MPH

POSTED SPEED: 40 MPH

ACCESS: NO PRIMARY ACCESS TO INDIVIDUAL LOTS PERMITTED. 1/2 MILE SPACING TO SIGNALIZED INTERSECTIONS IS REQUIRED.

CONTINUITY: UNLIMITED.

FENCES: FENCES SHALL BE PLACED OUTSIDE OF THE LANDSCAPING AND PEDESTRIAN EASEMENT. (25' FROM ROW)

LANDSCAPING: TREE LAWN, MEDIAN, AND BUFFER AREA LANDSCAPING MAINTENANCE SHALL BE THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER OR HOA.

CURB AND GUTTER: VERTICAL CURB AND GUTTER.

CR 9.5 (HIGH PLANS BOULEVARD): ADDITIONAL REQUIREMENTS MAY APPLY. SEE CDOT FOR SPECIFIC DESIGN CRITERIA.

SCALE: NTS

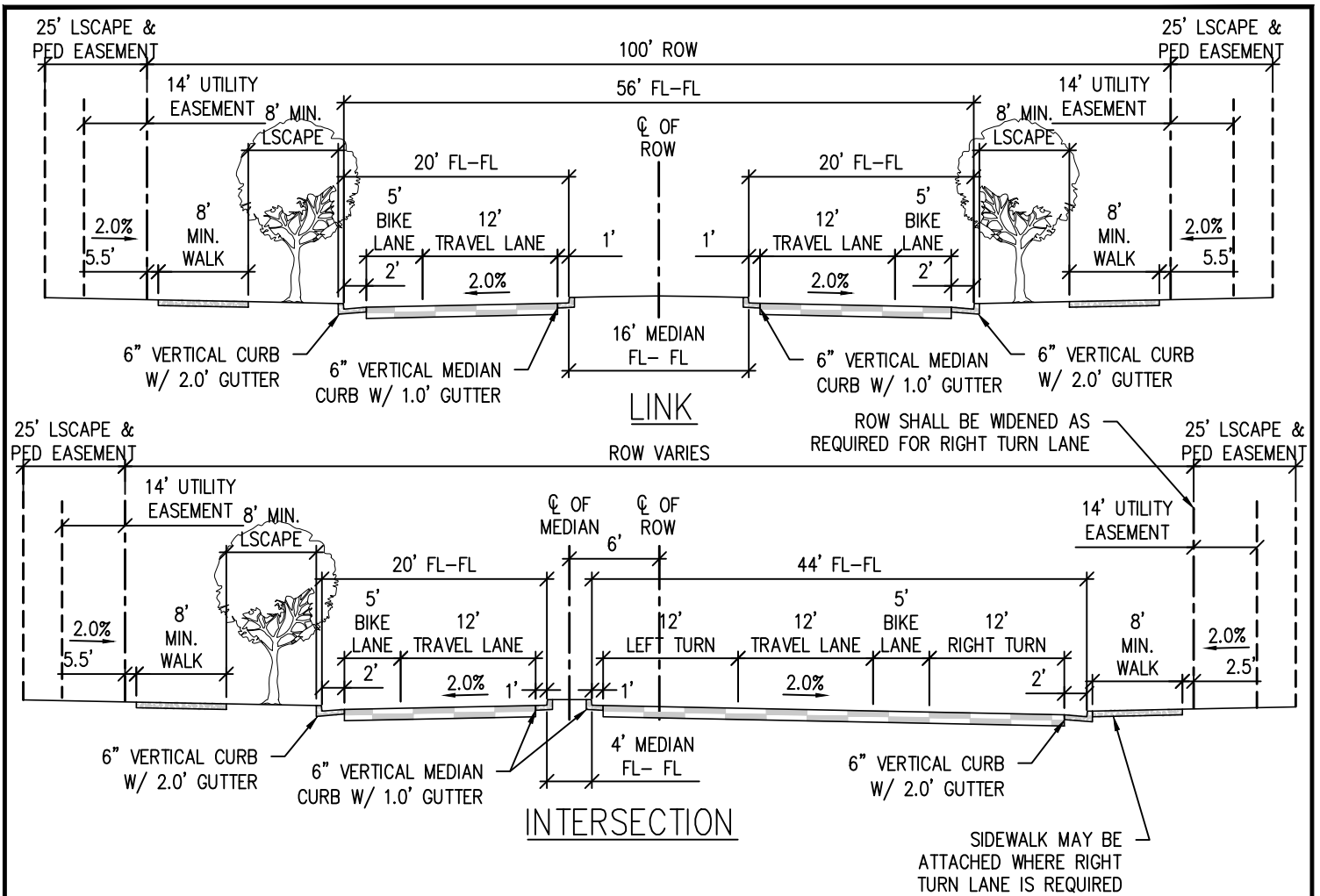


TOWN OF MEAD STANDARD DESIGN CRITERIA

2-LANE MAJOR ARTERIAL STREET

D3.01B

DATE: 04/2021



**ROADWAY WIDTH:** 56' BETWEEN INTERSECTIONS; WIDEN AT INTERSECTIONS AS NEEDED.

**RIGHT OF WAY WIDTH:** 100' MIN. BETWEEN INTERSECTIONS; WIDEN AT INTERSECTIONS AS NEEDED.

**TRAVEL LANES:** 2 LANES AT 12' WIDE (EXCLUSIVE OF GUTTER).

**LEFT TURN LANE:** 12' WIDE, REQUIRED AT INTERSECTION.

**BIKE LANES:** 2 LANES, 5' WIDE MIN. (EXCLUSIVE OF GUTTER).

**PARKING:** NONE.

**SIDEWALK:** 8' MIN. WIDE IF DETACHED BY AT LEAST 8'. ADDITIONAL WIDTH MAY BE REQUIRED FOR HIGHER PEDESTRIAN TRAFFIC IN OR IF ATTACHED TO ACTIVITY AREAS. 8' MIN. WIDE DETACHED FOR REDEVELOPMENT.

**MEDIAN:** 16' WIDE (FLOWLINE TO FLOWLINE), 4' IN LEFT TURN AREA. COLORED CONCRETE OR LANDSCAPED.

**DESIGN SPEED:** 45 MPH

**POSTED SPEED:** 40 MPH

**ACCESS:** NO PRIMARY ACCESS TO INDIVIDUAL LOTS PERMITTED. 1/4 MILE SPACING TO SIGNALIZED INTERSECTIONS IS REQUIRED.

**CONTINUITY:** UNLIMITED.

**FENCES:** FENCES SHALL BE PLACED OUTSIDE OF THE LANDSCAPING. (25' FROM ROW)

**LANDSCAPING:** TREE LAWN, MEDIAN, AND BUFFER AREA LANDSCAPING MAINTENANCE SHALL BE THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER OR HOA.

**CURB AND GUTTER:** VERTICAL CURB AND GUTTER.

SCALE: NTS

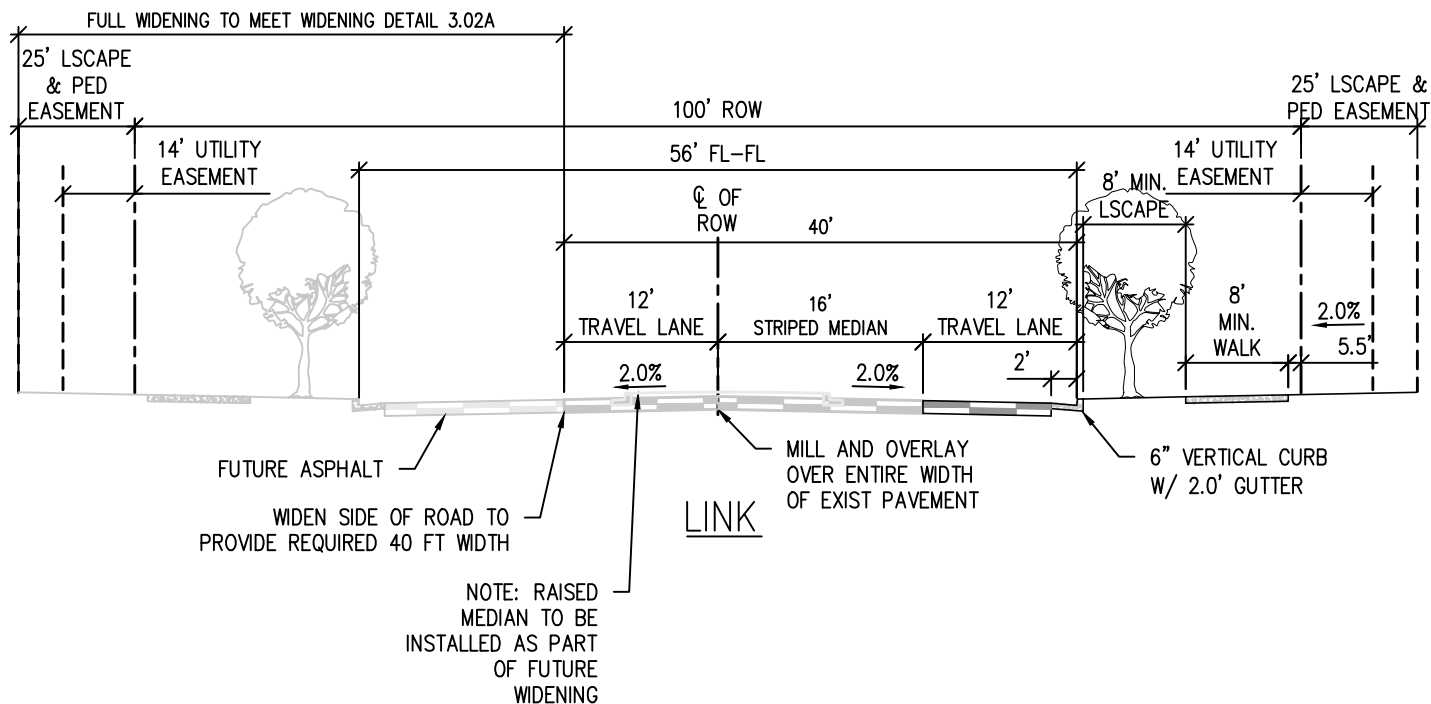


TOWN OF MEAD STANDARD DESIGN CRITERIA

2-LANE MINOR ARTERIAL STREET

D3.02A

DATE: 04/2021



ROADWAY WIDTH: 56' BETWEEN INTERSECTIONS; WIDEN AT INTERSECTIONS AS NEEDED.

RIGHT OF WAY WIDTH: 100' MIN. BETWEEN INTERSECTIONS; WIDEN AT INTERSECTIONS AS NEEDED.

TRAVEL LANES: 2 LANES AT 12' WIDE (EXCLUSIVE OF GUTTER).

LEFT TURN LANE: 12' WIDE, REQUIRED AT INTERSECTION.

BIKE LANES: 2 LANES, 5' WIDE MIN. (EXCLUSIVE OF GUTTER).

PARKING: NONE.

SIDEWALK: 8' MIN. WIDE IF DETACHED BY AT LEAST 8'. ADDITIONAL WIDTH MAY BE REQUIRED FOR HIGHER PEDESTRIAN TRAFFIC IN AND LEADING TO ACTIVITY AREAS. 8' MIN. WIDE DETACHED FOR REDEVELOPMENT.

MEDIAN: 16' WIDE (FLOWLINE TO FLOWLINE), 4' IN LEFT TURN AREA. COLORED CONCRETE OR LANDSCAPED.

DESIGN SPEED: 45 MPH

POSTED SPEED: 40 MPH

ACCESS: NO PRIMARY ACCESS TO INDIVIDUAL LOTS PERMITTED. 1/4 MILE SPACING TO SIGNALIZED INTERSECTIONS IS REQUIRED.

CONTINUITY: UNLIMITED.

FENCES: FENCES SHALL BE PLACED OUTSIDE OF THE LANDSCAPING. (25' FROM ROW)

LANDSCAPING: TREE LAWN, MEDIAN, AND BUFFER AREA LANDSCAPING MAINTENANCE SHALL BE THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER OR HOA.

CURB AND GUTTER: VERTICAL CURB AND GUTTER.

MILL AND OVERLAY: IF DEPTH OF PAVEMENT DOES NOT ALLOW FOR A MILL AND OVERLAY A FULL DEPTH REPLACEMENT IS REQUIRED

SCALE: NTS



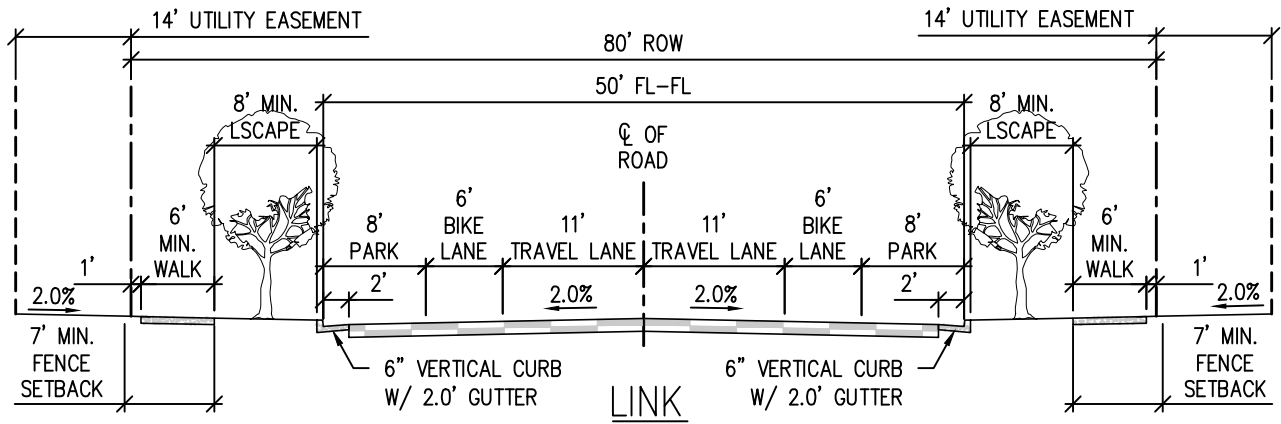
TOWN OF MEAD STANDARD DESIGN CRITERIA

2-LANE MINOR ARTERIAL STREET HALF SECTION

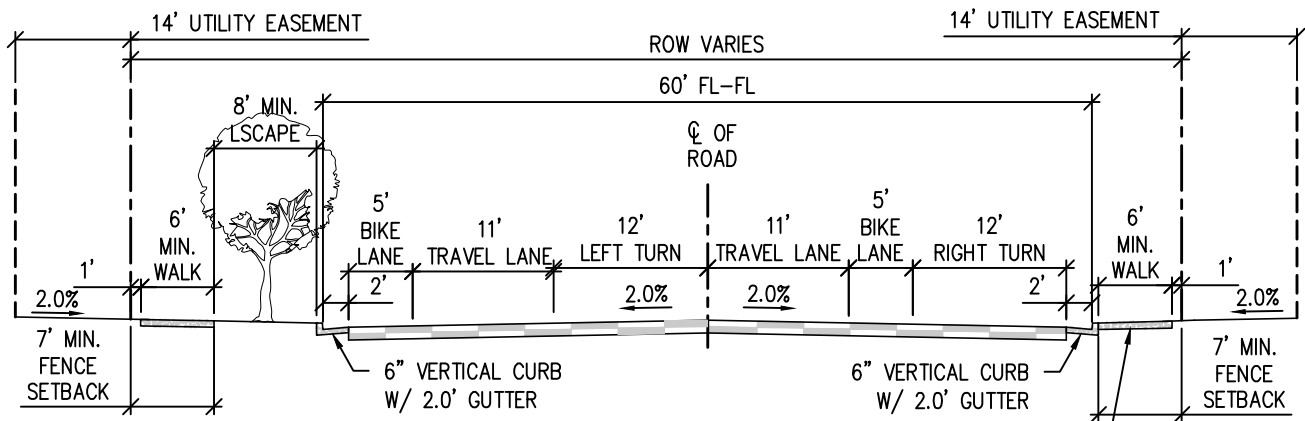
D3.02B

DATE: 04/2021





LINK



INTERSECTION

SIDEWALK MAY BE ATTACHED WHERE RIGHT TURN LANE IS REQUIRED

ROADWAY WIDTH: 50' BETWEEN INTERSECTIONS; WIDEN AT INTERSECTIONS AS NEEDED.

RIGHT OF WAY WIDTH: 80' MIN. BETWEEN INTERSECTIONS; WIDEN AT INTERSECTIONS AS NEEDED.

TRAVEL LANES: 2 LANES AT 11' WIDE (EXCLUSIVE OF GUTTER OR MIN. 12' WHERE NO GUTTER).

LEFT TURN LANE: 12' WIDE, AT INTERSECTION WHERE NEEDED.

BIKE LANES: 2 LANES, 6' WIDE MIN. (EXCLUSIVE OF GUTTER). 7' WIDE WHERE ADJACENT TO CURB.

PARKING: TWO LANES, 8' WIDE (MIN.); PARKING MAY BE REMOVED AT CERTAIN LOCATIONS TO PROVIDE A LEFT TURN LANE WHERE NEEDED.

SIDEWALK: 6' MIN. WIDE (MIN.) ADDITIONAL WIDTH MAY BE REQUIRED IF ATTACHED OR FOR HIGHER PEDESTRIAN TRAFFIC IN OR LEADING TO ACTIVITY AREAS.

MEDIAN: NOT REQUIRED, EXCEPT WHERE NECESSARY TO CONTROL ACCESS AND/OR TO PROVIDE PEDESTRIAN REFUGE. ADDITIONAL ROADWAY AND ROW WIDTH MAY BE REQUIRED.

DESIGN SPEED: 40 MPH

POSTED SPEED: 25-30 MPH

ACCESS: ACCESS WILL BE LIMITED. POINTS OF ACCESS MUST BE APPROVED BY THE LOCAL ENTITY.

CONTINUITY: THE STREET SHALL BE CONTINUOUS FOR NO MORE THAN 1,320 FT.

FENCES: FENCES SHALL BE PLACED OUTSIDE OF THE ROW.

LANDSCAPING: TREE LAWN, MEDIAN, AND BUFFER AREA LANDSCAPING MAINTENANCE SHALL BE THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER OR HOA.

CURB AND GUTTER: VERTICAL CURB AND GUTTER.

SCALE: NTS

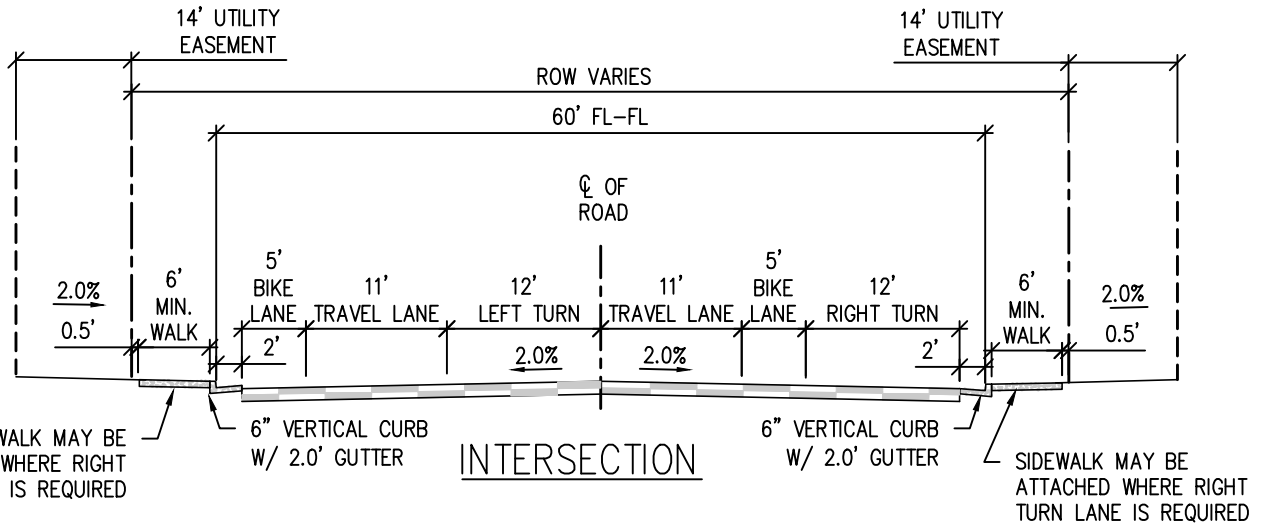
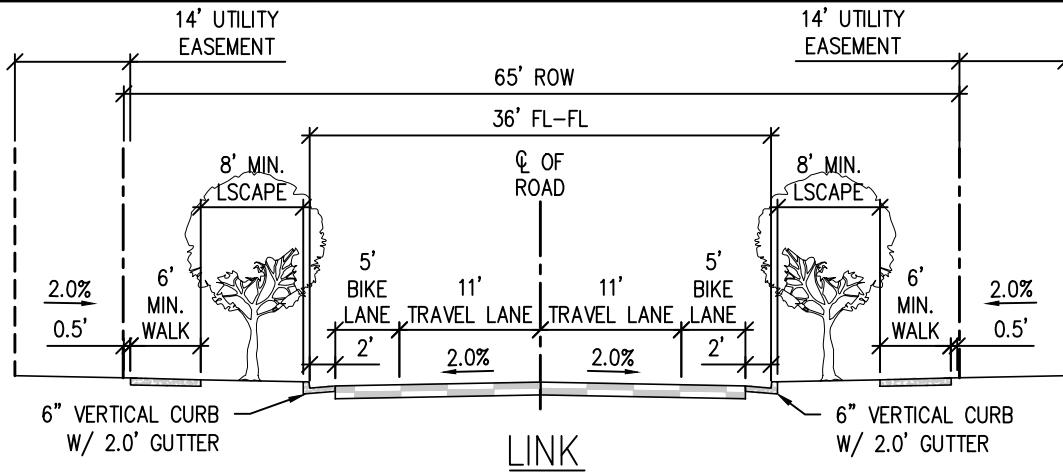


TOWN OF MEAD STANDARD DESIGN CRITERIA

MAJOR RESIDENTIAL COLLECTOR AND  
BUSINESS COLLECTOR STREET

D3.03

DATE: 04/2021



ROADWAY WIDTH: 36' BETWEEN INTERSECTIONS; WIDEN AT INTERSECTIONS AS NEEDED.

RIGHT OF WAY WIDTH: 68' MIN. BETWEEN INTERSECTIONS; WIDEN AT INTERSECTIONS AS NEEDED.

TRAVEL LANES: 2 LANES AT 11' WIDE (EXCLUSIVE OF GUTTER OR MIN. 12' WHERE NO GUTTER).

LEFT TURN LANE: 12' WIDE, REQUIRED AT INTERSECTION.

BIKE LANES: 2 LANES, 7' WIDE MIN. (EXCLUSIVE OF GUTTER).

PARKING: NONE.

SIDEWALK: 6' MIN. WIDE (MIN.) ADDITIONAL WIDTH MAY BE REQUIRED IF ATTACHED OR FOR HIGHER PEDESTRIAN TRAFFIC IN OR LEADING TO ACTIVITY AREAS.

MEDIAN: NOT REQUIRED, EXCEPT WHERE NECESSARY TO CONTROL ACCESS AND/OR TO PROVIDE PEDESTRIAN REFUGE. ADDITIONAL ROADWAY AND ROW WIDTH MAY BE REQUIRED.

DESIGN SPEED: 40 MPH

POSTED SPEED: 25-30 MPH

ACCESS: ACCESS WILL BE LIMITED. POINTS OF ACCESS MUST BE APPROVED BY THE LOCAL ENTITY.

CONTINUITY: THE STREET SHALL BE CONTINUOUS FOR NO MORE THAN 1,320 FT.

FENCES: FENCES SHALL BE PLACED OUTSIDE OF THE ROW.

LANDSCAPING: TREE LAWN, MEDIAN, AND BUFFER AREA LANDSCAPING MAINTENANCE SHALL BE THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER OR HOA.

CURB AND GUTTER: VERTICAL CURB AND GUTTER.

SCALE: NTS

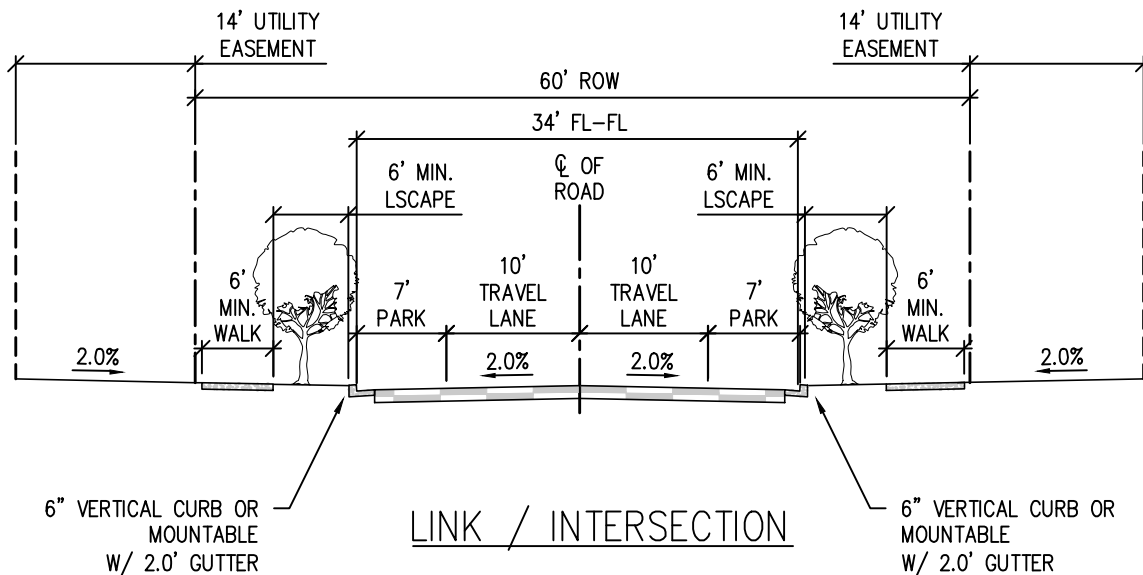


TOWN OF MEAD STANDARD DESIGN CRITERIA

MINOR COLLECTOR STREET

D3.04

DATE: 04/2021



ROADWAY WIDTH: 36' BETWEEN INTERSECTIONS; WIDEN AT INTERSECTIONS AS NEEDED.

RIGHT OF WAY WIDTH: 50' MIN.

TRAVEL LANES: 2 LANES AT 11' WIDE (EXCLUSIVE OF GUTTER OR MIN. 12' WHERE NO GUTTER).

LEFT TURN LANE: NONE.

BIKE LANES: SHARED STREET.

PARKING: TWO LANES, 7' WIDE SHARED WITH BIKE LANE.

SIDEWALK: 6' MIN. WIDE (MIN.) ADDITIONAL WIDTH MAY BE REQUIRED IF ATTACHED OR FOR HIGHER PEDESTRIAN TRAFFIC IN OR LEADING TO ACTIVITY AREAS.

MEDIAN: NOT REQUIRED, EXCEPT WHERE NECESSARY TO CONTROL ACCESS AND/OR TO PROVIDE PEDESTRIAN REFUGE. ADDITIONAL ROADWAY AND ROW WIDTH MAY BE REQUIRED.

DESIGN SPEED: 25 MPH

POSTED SPEED: 25 MPH

ACCESS: NO LIMIT.

CONTINUITY: THE STREET SHALL BE CONTINUOUS FOR NO MORE THAN 660 FT.

FENCES: FENCES SHALL BE PLACED OUTSIDE OF THE ROW.

LANDSCAPING: TREE LAWN, MEDIAN, AND BUFFER AREA LANDSCAPING MAINTENANCE SHALL BE THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER OR HOA.

CURB AND GUTTER: VERTICAL OR MOUNTABLE CURB AND GUTTER.

SCALE: NTS

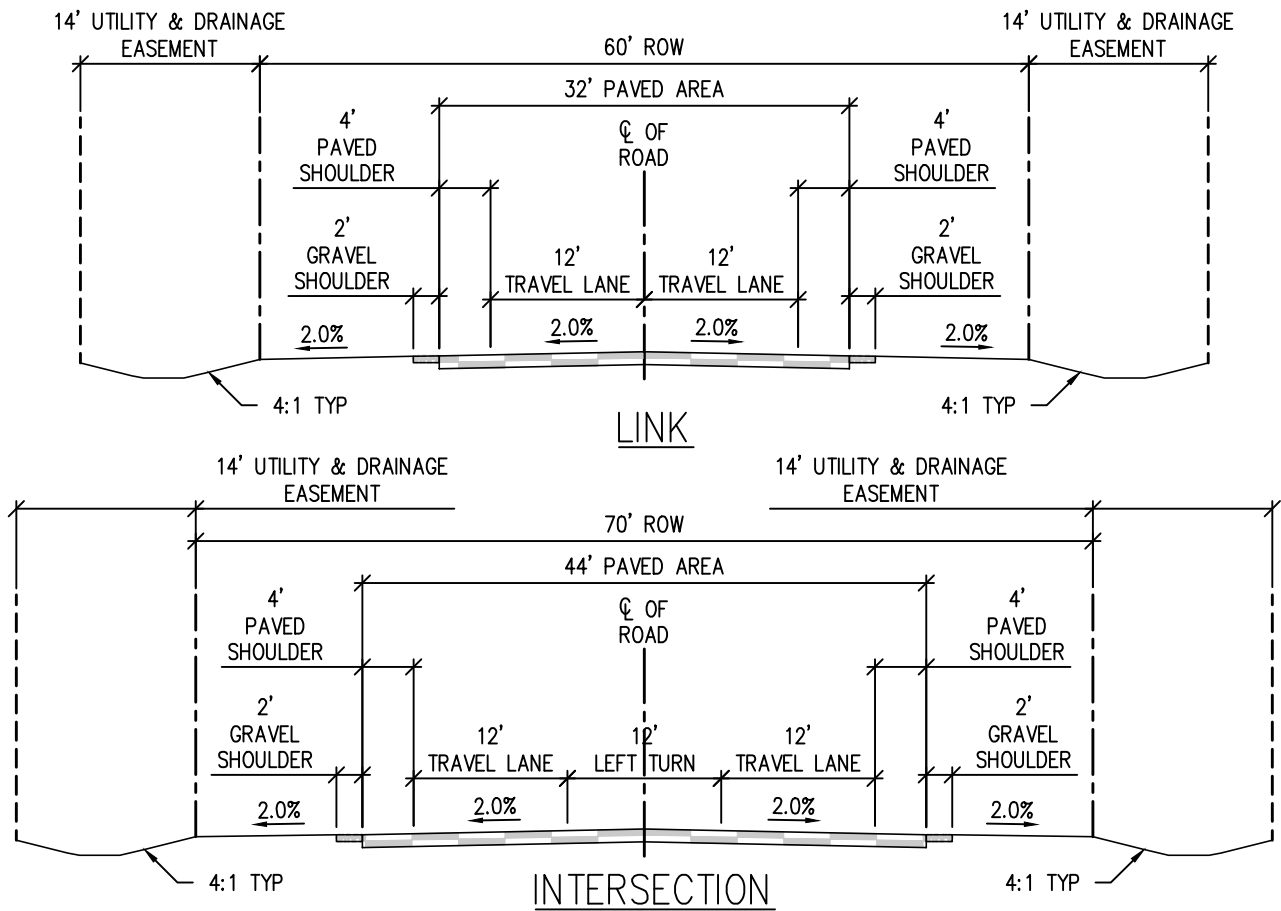


TOWN OF MEAD STANDARD DESIGN CRITERIA

RESIDENTIAL LOCAL STREET

D3.05

DATE: 04/2021



ROADWAY WIDTH: 32' BETWEEN INTERSECTIONS; 44' AT INTERSECTIONS WITH TURN LANE.

RIGHT OF WAY WIDTH: 60' MIN. BETWEEN INTERSECTIONS; WIDEN TO 70' AT INTERSECTIONS.

TRAVEL LANES: 2 LANES AT 12' WIDE.

LEFT TURN LANE: NONE.

BIKE LANES: SHARED STREET OR ON PAVED SHOULDER.

PARKING: NO PARKING PERMITTED ON ARTERIAL ROADS, SHOULDER MAY BE USED FOR OTHER ROADS.

SIDEWALK: NONE.

MEDIAN: NOT REQUIRED, EXCEPT WHERE NECESSARY TO CONTROL ACCESS AND/OR TO PROVIDE PEDESTRIAN REFUGE. ADDITIONAL ROADWAY AND ROW WIDTH MAY BE REQUIRED.

WHERE USED: THESE SPECIFICATIONS MAY BE USED FOR ESTATE TYPE DEVELOPMENTS GROSS DENSITY  $\leq 2$  DWELLING UNITS / ACRE OR WITHIN SEPARATOR OR TRANSITION AREAS AS RECOMMENDED IN OTHER STUDIES ADOPTED BY LOCAL ENTITIES.

DESIGN SPEED: ARTERIAL 45 MPH; COLLECTOR 40 MPH; LOCAL 30 MPH

POSTED SPEED: ARTERIAL 40 MPH; COLLECTOR 35 MPH; LOCAL 25 MPH

ACCESS: NO LIMIT.

CONTINUITY: UNLIMITED.

FENCES: NONE.

LANDSCAPING: NATIVE GRASS.

DRAINAGE MAINTENANCE: MAINTENANCE SHALL BE THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER OR HOA

CURB AND GUTTER: NONE.

SCALE: NTS

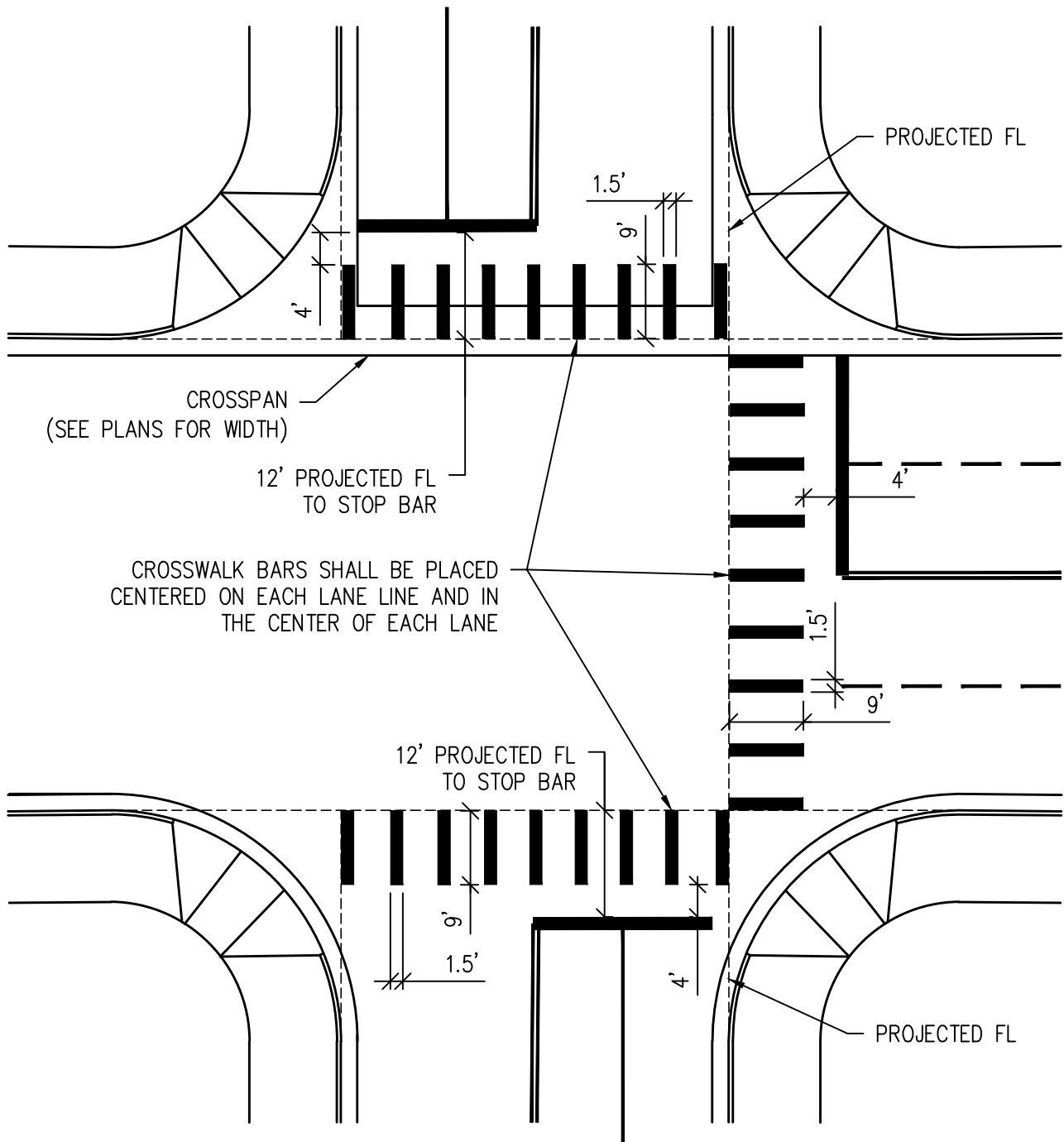


TOWN OF MEAD STANDARD DESIGN CRITERIA

RURAL ROAD

D3.06

DATE: 04/2021



SCALE: NTS



TOWN OF MEAD STANDARD DESIGN CRITERIA

STREET INTERSECTION STRIPING DETAIL

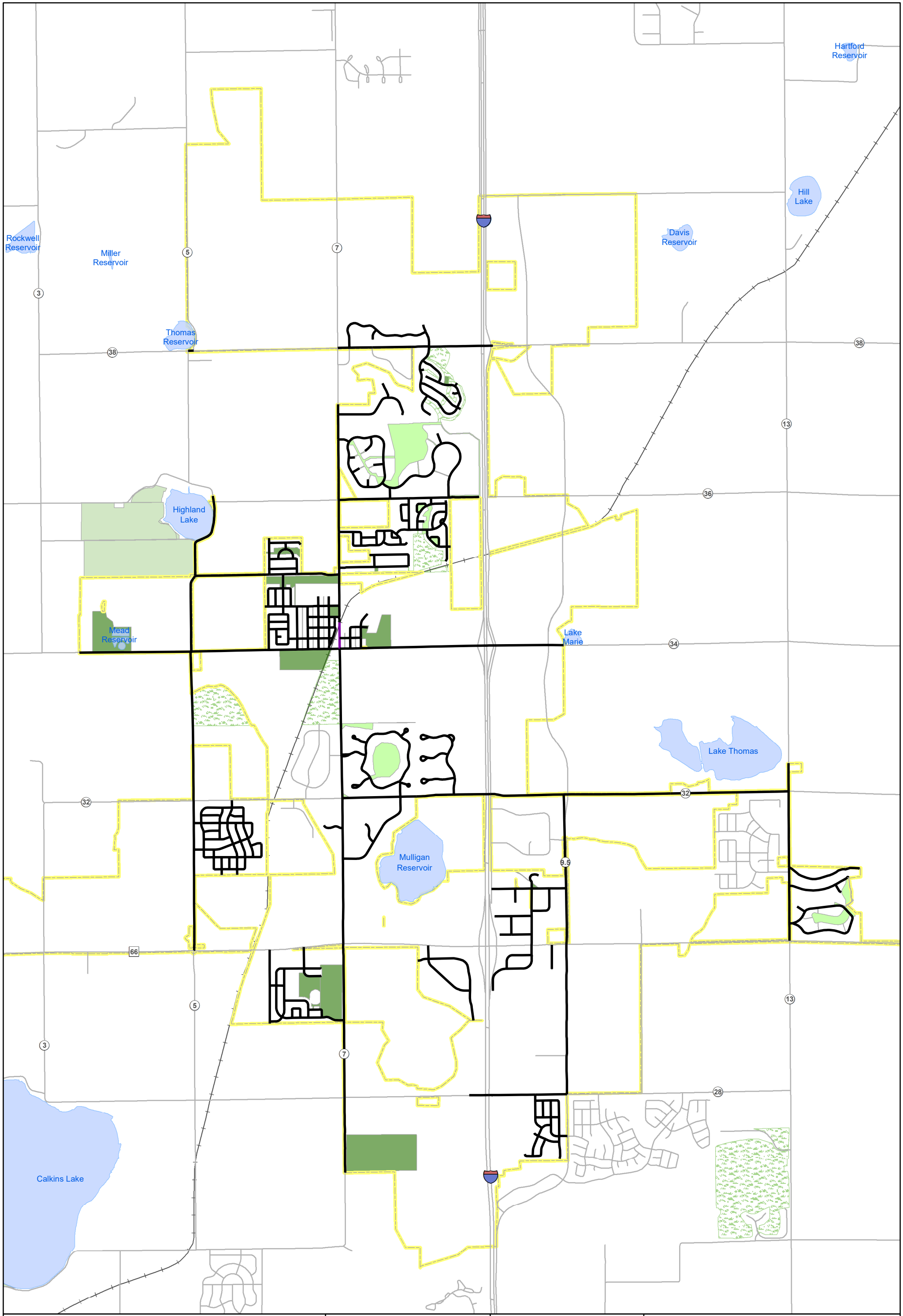
D3.21

DATE: 04/2021

**SECTION 03500  
PROJECT MAPS**

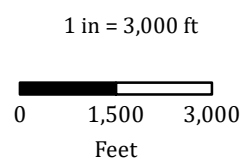
**Town of Mead**

[Mead \(arcgis.com\)](https://arcgis.com)



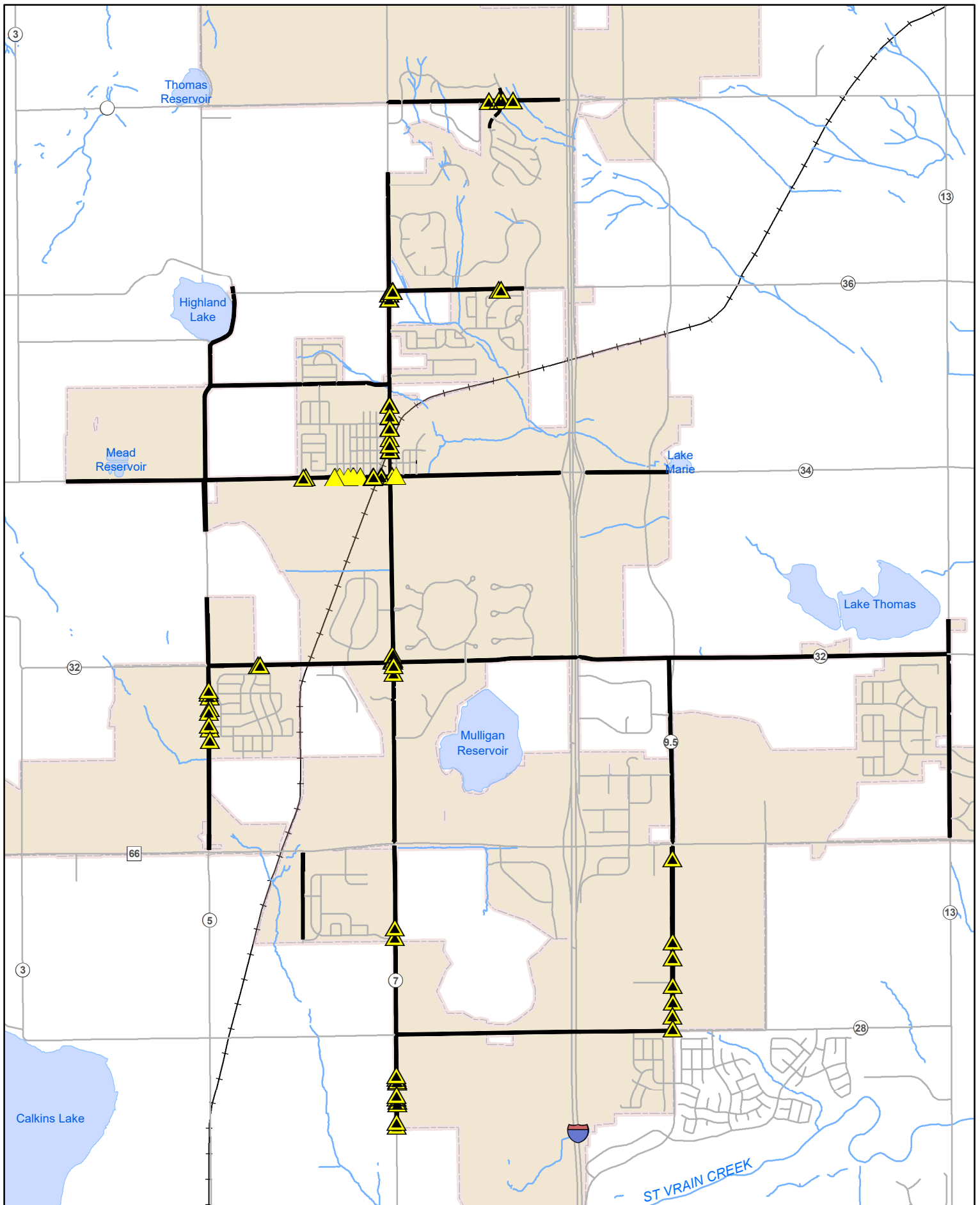
## Street Pavement Survey 2022

- Asphalt
- Concrete
- Town Boundary



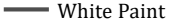
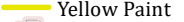
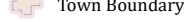


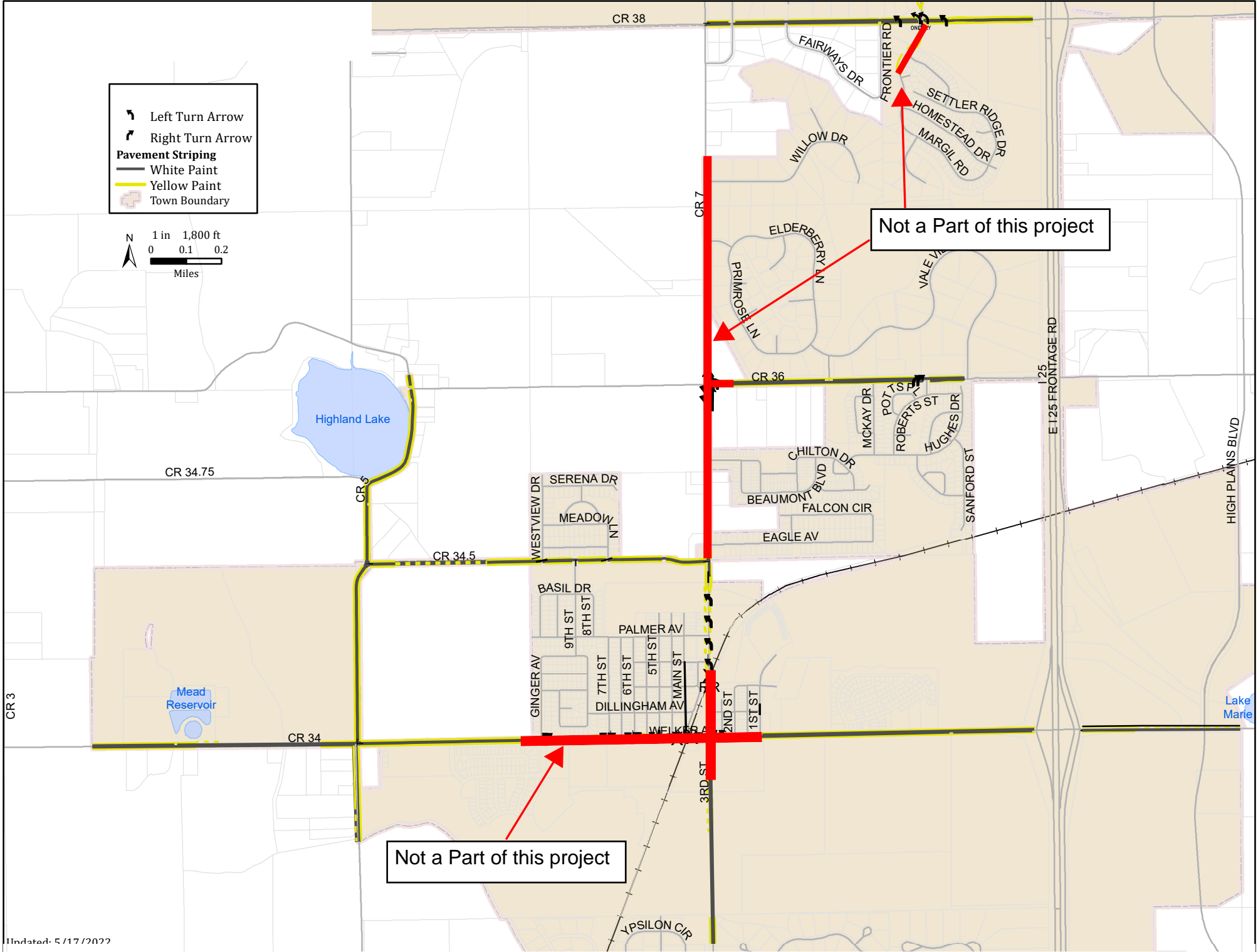
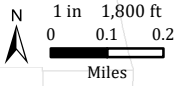
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File: PavementSurvey.mxd Updated: 7/7/2022





-  Left Turn Arrow
-  Right Turn Arrow
- Pavement Striping**
-  White Paint
-  Yellow Paint
-  Town Boundary



Not a Part of this project

Not a Part of this project

Lake Thomas

Mulligan Reservoir

Not a Part of this project

Not a Part of this project

South Bound CR 9.5 Not a Part of this project at this location.

Not a Part of this project

Left Turn Arrow  
 Right Turn Arrow  
**Pavement Striping**  
 White Paint  
 Yellow Paint  
 Town Boundary

