

**SPECIFICATIONS AND CONTRACT DOCUMENTS  
FOR  
WESTERN PULASKI COUNTY WATER DISTRICT  
PULASKI COUNTY, KENTUCKY**

**WATER SYSTEM IMPROVEMENTS & REPLACEMENTS:  
CONTRACT 3 – LEES FORD AREA**

**This project funded by:**

**Commonwealth of Kentucky  
Drinking Water State Revolving Fund F  
F16-003  
&  
Drinking Water State Revolving Fund B  
B20-004**

**PROJECT NO. 2132**

**OCTOBER 2021**

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## ADVERTISEMENT FOR BIDS

WESTERN PULASKI COUNTY WATER DISTRICT, PULASKI COUNTY, KENTUCKY

Separate Sealed BIDS for construction of the WATER SYSTEM IMPROVEMENTS & REPLACEMENTS: CONTRACT 3 – LEES FORD AREA, consisting of the construction of approximately 2,400 LF of 12-Inch Ductile Iron CL350 Water Line and other associated appurtenances will be received by the Western Pulaski County Water District, 2128 West Highway 80, Somerset, Kentucky until 5:00 p.m., local time, October 19, 2021, and then at said Office publicly opened and read aloud.

The CONTRACT DOCUMENTS may be examined at the following locations:

WESTERN PULASKI CO. WATER DISTRICT, 2128 West Highway 80, Somerset, KY 42503  
MONARCH ENGINEERING, INC., 556 Carlton Drive, Lawrenceburg, Kentucky 40342

Copies of the CONTRACT DOCUMENTS may be obtained at the office of Monarch Engineering, Inc., 556 Carlton Drive, Lawrenceburg, KY 40342, upon request in writing and payment of \$150.00 non-refundable for each set. Bidders must purchase plans from the Engineer and payment shall be made via check in the name of the Bidder. Plans purchased by one party and bid by another party shall not be accepted. Plans will be available for purchase until 3:00 PM (E.D.T.), October 15, 2021.

Each Bidder must accompany his bid with a BID BOND in amount of not less than five (5) percent of the base bid. No Bidder may withdraw his bid for a period of 90 days. The Bidder awarded the CONTRACT shall execute a 100% PERFORMANCE BOND and a 100% PAYMENT BOND and shall furnish insurance as required, in the GENERAL CONDITIONS. CONTRACT shall be completed within 180 calendar days after date of authorization to start work. Liquidated damages will be \$1,000.00 per calendar day.

Attention of bidders is particularly called to the requirements as to conditions of employment to be observed and minimum wage rates to be paid under the contract, Title VI of the Civil Rights Act of 1964, the Anti-Kickback Act, and the Contract Work Hours Standard Act and 40 CFR 31.36 L (3, 4 & 6), Section 3, Segregated Facility, Section 109 and this project shall be in compliance with Executive Order 11246 (Equal Employment Opportunity) as amended. Contractors/Subcontractors shall comply with 41 CFR 60-4, in regard to affirmative action, to insure equal opportunity to females and minorities and will apply the time tables and goal set forth in 41 CFR 60-4 if applicable to the area of the project. Local firms, minority firms, small and female businesses are particularly encouraged to participate. Any bid that is obviously unbalanced may be rejected. The Western Pulaski County Water District reserves the right to reject any and all bids and waive informalities.

Federal law prohibits discrimination on the grounds of race, color, national origin, religion, age, handicap and sex in this project.

This project is being funded in part with a KIA Drinking Water SRF loan. Accordingly, the procurement will be subject to DOW Procurement Guidance including the Davis-Bacon Act. The award will be made to the lowest, responsive, responsible bidder.

WESTERN PULASKI COUNTY WATER DISTRICT, PULASKI COUNTY, KENTUCKY

BY: \_\_\_\_\_  
Don Calder, Chairman

# Instructions to Bidders

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## ARTICLE 1 - DEFINED TERMS

1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:

- A. Issuing Office--The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.

## ARTICLE 2 - COPIES OF BIDDING DOCUMENTS

2.01 Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the Advertisement for Bids may be obtained from the Issuing Office.

2.02 Complete sets of Bidding Documents must 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 confer a license or grant for any other use.

### **ARTICLE 3 - QUALIFICATIONS OF BIDDERS**

3.01 To demonstrate Bidder's qualifications to perform the Work, within five days of Owner's request, Bidder shall submit written evidence such as financial data, previous experience, present commitments, and such other data as may be called for below.

- A. Each Bidder must accompany his BID with a list of at least three projects, similar in scope and cost to this project, with references in which his company has performed work. The company, which performed the work as shown on the list of references must be the same company submitting the BID. The references shall include the name of the job, approximate date the job was completed, name of the utility company including contact person, and the name of the engineer including contact person.

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

4.01 Subsurface and Physical Conditions

- A. The Supplementary Conditions identify:
  - 1. Those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Bidding Documents.
  - 2. Those drawings of physical conditions in or relating to existing surface and subsurface structures at or contiguous to the Site (except Underground Facilities) that Engineer has used in preparing the Bidding Documents.
- B. Copies of reports and drawings referenced in paragraph 4.01.A will be made available by Owner to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in paragraph 4.02 of the General Conditions has been identified and established in paragraph 4.02 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

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. The Supplementary Conditions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that ENGINEER has used in preparing the Bidding Documents.
- B. Copies of reports and drawings referenced in paragraph 4.03.A will be made available by Owner to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the “technical data” contained therein upon which Bidder is entitled to rely as provided in paragraph 4.06 of the General Conditions has been identified and established in paragraph 4.06 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any “technical data” or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

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 conditions appear in paragraphs 4.02, 4.03, and 4.04 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 4.06 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 Reference is made to Article 7 of the Supplementary Conditions for the identification of the general nature of other work that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) that relates to the Work contemplated by these Bidding Documents. On request, Owner will provide to each Bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such other work.

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

- A. Examine and carefully study the Bidding Documents, the other related data identified in the Bidding Documents, and any Addenda;
- 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, or 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 in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and (2) reports and drawings of Hazardous Environmental Conditions at the Site which have been identified in the Supplementary Conditions as provided in paragraph 4.06 of the General Conditions;
  - E. Obtain and carefully study (or accept consequences for not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of 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 safety precautions and programs incident thereto;
  - 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 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. Correlate the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents;
  - I. 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
  - J. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.
- 4.08 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 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 A pre-Bid conference will not be held.

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

6.01 The Site is identified in the Bidding Documents. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided 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 Engineer in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than five days prior to the date for opening of Bids may not be answered. 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 5 % of Bidder's maximum Bid price and in the form of a certified check or a Bid bond (EJCDC No. C-430, 2002 Edition) issued by a surety meeting the requirements of paragraphs 5.01 and 5.02 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 10 days after the Notice of Award, Owner may annul the Notice of Award and the Bid security of that Bidder will be forfeited. 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 91 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 number of days within which, or the dates by which, the Work is to be substantially completed. (Upon substantial completion, if necessary, a date for final completion and payment should be determined between the Owner, Contractor, and Engineer based on remaining work, market and weather conditions.)

#### **ARTICLE 10 - LIQUIDATED DAMAGES**

- 10.01 Provisions for liquidated damages 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, or "or-equal" materials and equipment as defined in paragraph 6.05 of the General Conditions, or those substitute materials and equipment approved by the Engineer and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function, and quality to be met by any proposed substitute or "or-equal" item. No item of material or equipment will be considered by Engineer as a substitute or equal until after the bids have been opened and the contract has been awarded. The burden of proof of the merit of the proposed item, and cost for review of a proposed substitute item, is upon the Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. Bidders shall not rely upon approvals made in any other manner. Any reduction made in contract price due to approval of a substitute item or equal, will be subtracted from the bidders contract and placed into contingency funds for the project.

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

- 12.01 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to Owner a list of all such Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by Owner. 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, without an increase in the Bid.

- 12.02 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest responsible 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 and 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 6.06 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.
- 12.04 The Contractor shall not award work to Subcontractor(s) in excess of the limits stated in SC 6.06.

### **ARTICLE 13 - PREPARATION OF BID**

- 13.01 The Bid form is included with the Bidding Documents. Additional copies may be obtained from Engineer.
- 13.02 All blanks on the Bid form shall be completed by printing in ink or by typewriter and the Bid signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid price shall be indicated for each Bid Item listed therein, or the words "No Bid," "No Change," or "Not Applicable" entered.
- 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. If required by State where work is to be performed, the corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporation business address and state of incorporation shall be provided on the Bid Form.
- 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 business address of the partnership shall be provided on the Bid Form.
- 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 business address of the firm must be provided on the Bid Form.
- 13.06 A Bid by an individual shall show the Bidder's name and business 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 business address of the joint venture must be provided on the Bid Form.

- 13.08 All names shall be typed or printed in ink below the signatures.
- 13.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers and dates of which shall be filled in on the Bid form.
- 13.10 The address and telephone number for communication 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 covenant to obtain such qualification prior to award of the Contract. Bidder's state contractor license number for the state of the Project, if any, shall also be shown on the Bid Form.

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

##### 14.01 Unit Price

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the Bid schedule.
- B. The total of all bid prices will be the sum of the products of the estimated quantity of each item and the corresponding unit price. The final quantities and Contract Price will be determined in accordance with paragraph 11.03 of the General Conditions.
- C. 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 Bidder shall submit one copy of Bid Form, Bid Bond and Bid Submittal Reference List.
- 15.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Advertisement for Bids and shall be enclosed in an opaque sealed envelope plainly marked with 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 and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED." When using the mail or other delivery system, the Bidder is totally responsible for the mail or other delivery system delivering the Bid at the place and prior to the time indicated in the Advertisement for Bid. A mailed Bid shall be addressed to Owner.

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

- 16.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the 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 or negotiated, that Bidder will be disqualified from further bidding on the Work. This provision to withdraw a Bid without forfeiting the Bid security does not apply to Bidder's errors in judgment in preparing the Bid.

## **ARTICLE 17 - OPENING OF BIDS**

- 17.01 Bids will be opened at the time and place indicated in the Advertisement for Bids and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the 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 90 days.

## **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 be non-responsible. 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 such alternates, unit prices 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 to perform the Work in accordance with the contract Documents.
- 19.06 If the Contract is to be awarded, Owner will award the Contract to the responsible Bidder whose Bid, conforming with all the material terms and conditions of the Instructions to Bidders, is lowest in price and in the best interest of the Owner by considering other factors such as work history, recommendations, etc. In cases where the low bidder is not awarded the contract, submit an explanation of the selection process used, along with the recommendation for award, in order for all bidding requirements to be met for RD to concur in award of contract.

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

- 20.01 Article 5 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 must be accompanied by such bonds.

## **ARTICLE 21 - SIGNING OF AGREEMENT**

- 21.01 When Owner gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within 10 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.
- 21.02 This Contract is expected to be funded in part with funds provided by the United States Department of Agriculture, Rural Development (RD). Refer to Article 18 of the General Conditions for information on the Federal Requirements.
- 21.03 Concurrence by RD in the award of the Contract is required before the Contract is effective.

## **SPECIAL NOTES FOR CONTRACTORS**

Each Bidder must accompany his bid with a list of at least three projects, similar in scope and cost to this project, with references in which his company has performed work. The company which performed the work as shown on the list of references must be the same company submitting the bid. The references shall include the name of the job, approximate date the job was completed, name of the utility company including contact person, and the name of the engineer including contact person.

The Contract Documents specify that the Contract shall be completed within 180 calendar days, but no work shall be performed on weekends and Federal holidays unless requested in writing at least seven days prior to any one weekend or holiday, and approved by the Engineer. This Contract is to be constructed during the weekdays of Monday through Friday and the period of 180 calendar days should allow the Contractor ample time to complete the project.

The Contractor shall not be allowed to maintain permanent residency for any employees on the construction site.

The Owner reserves the right to request and obtain information regarding the Contractor's financial status such as a financial statement or any other information relative to the financial capability of the Contractor to perform the work.

The Contractor shall construct and make ready for service, including all tests, the water lines complete, in each area before working in another area. There is no exception to this requirement. The failure of the Contractor to abide by this requirement shall result in termination of the Contract. The Contractor may install roadway bores independent of this requirement.

The Contractor shall coordinate all disruptions of service with the Owner and Engineer. Prior to any disruption, the Contractor shall inform both parties of his intentions, methods and projected duration of disturbance and receive their approval prior to initiating the specific work. The existing conditions as shown on the plan sheets have been formulated through old plans, discussions with the District personnel and data gathered by field surveys. The Contractor shall be responsible for locating and verifying all existing piping, conduits and any items that will be affected by implementation of the project.

The Contractor shall comply with all conditions and instructions included within the various regulatory permits required for construction of this project.

Included elsewhere within these documents are the Kentucky Transportation Cabinet Encroachment Permits. The Contractor is required to comply with all requirements included in these permits.

When performing work along or across any public roadway, the Contractor shall post warning signs painted orange and they shall be four feet by four feet mounted on posts in accordance with the Kentucky Transportation Cabinet's Uniform Traffic Control Devices. Furthermore, all signs, barricades, lights, and traffic control procedures shall be installed in accordance with the Kentucky Transportation Cabinet's Manual on Uniform Traffic Control Devices.

The Contractor shall maintain two flag men at all times where machinery is in operation when working where the flow of traffic will be disturbed. There is no exception to this requirement. The use of radios will be required when visual contact between the flagmen does not exist.

At the completion of each work day, the Contractor shall backfill all open trenches and install all required traffic control signs, barricades, and lights in accordance with the Kentucky Transportation Cabinet's Manual on Uniform Traffic Control Devices.

The Contractor shall be responsible for keeping entire roadway free and clear at the end of each working day. No equipment shall be left on or parked along the road right of way.

Underground utilities shown within the Kentucky Transportation Cabinet's right of way shall not be placed in fill areas and shall be installed with a minimum depth of cover of 42-inches. In all other cases a minimum cover of depth of 30-inches should be maintained. Flush hydrants or utility service boxes should be located within two (2) feet from the edge of right-of-way line, or off right-of-way.

All effected KYTC ditch lines shall remain free of excess silt or erosion and constructed to the normal typical section of the roadway with a minimum depth of 18 inches from the shoulder break point. Contact the District Permits Engineer at KTC-DOH District #8, Somerset, Kentucky at (606) 677-4017 prior to beginning work.

All necessary steps shall be taken to prevent erosion or siltation of the public right-of-way, adjoining property and waterways. The Contractor shall practice "Best Management Practices" (BMPs) that will minimize siltation and erosion in or near streams. Contractor shall provide adequate control of siltation and erosion by limiting unnecessary excavation, disturbing or uprooting trees and vegetation, dumping of soil or debris, or pumping silt-laden water into a nearby stream. In addition to these typical erosion control measures, a temporary construction boundary fence is required in some areas of the project. Plan Sheet EC-1 outlines the specific site requirements and depicts recommended soil erosion control devices. The Contractor shall be responsible for obtaining a Section 404 Permit from the Corps of Engineers if applicable. All erosion control measures shall be incidental to the cost of installing other project components and no additional payment will be made.

The Contractor shall be responsible for obtaining a Section 404 Permit from the Corps of Engineers if applicable.

The Contractor shall be responsible for complying with all requirements relating to the Kentucky Pollutant Discharge Elimination System (KPDES) General Permit for Storm Water Discharges Associated with Construction Activities (KYR10). This includes, but is not limited to, filing the Notice of Intent (NOI) with the Kentucky Division of Water and developing a Stormwater Pollution Prevention Plan (SWPPP) for the project. A copy of the Notice of Intent has been included in these documents for the Contractor's use. However, it is recommended that the Contractor utilize the Division of Water's e-permitting web site (<http://epdpepfs01/eforms/depdefault.aspx>) as it greatly reduces the time required for acceptance of the Notice of Intent.

All pavement replacement shall be incidental to the cost of installing the water mains. No separate pay item is included for pavement replacement and no additional payment will be made.

All paved areas that are disturbed shall be backfilled with No. 9 stone, no exception. Again, this requirement shall be incidental to the cost of installing the water mains no additional payment will be made.

The minimum width of the pipe trench shall not be less than 24-Inches plus the diameter of the pipe being installed. Excavation of the pipe trench in rock areas shall be via the use of bucket and hoe type equipment and the use of any trencher type equipment shall not be allowed.

The estimated length of each directional bore is indicated on the plan sheets. This stated length shall be the footage used for the Contractors payment calculation regardless of the actual length required for installation. The Contractor shall examine the drawings and visit the site to determine to his own satisfaction the extent of the work, and considering the limitations of the equipment he plans to use, determine the actual length and associated cost of the directional bore planed.

The Contractor shall comply with OSHA (P.L. 91-596) and the Contract Work Hours and Safety Standards Act (P.L. 91-54) as they relate to construction of the Project.

If the contract price is in excess of \$100,000, provisions of the Contract Work Hours and Safety Standards Act at 29 CFR 5.5(b) apply. Wage Rate Requirements are included in Section FWD of these documents. Any wage classification that is applicable to the project which isn't listed in the "Heavy" determination shall be paid a minimum wage as follows:

- Operator: \$33.95 (Base Rate) / \$17.25 (Fringes)
- Labor: \$23.51 (Base Rate) / \$15.62 (Fringes)
- Trade: \$29.81 (Base Rate) / \$19.96 (Fringes)

***Preliminary... Final Rates TBD  
prior to Advertisement for Bids***

Examples of those classifications for which the "Trade" classification would apply include Boilermaker, Painter, Bricklayer, Asphalt Paver, Plumber, Roofer, etc.

Reasonable care shall be taken during construction to avoid damage to vegetation. Ornamental shrubbery and tree branches shall be temporarily tied back, where appropriate, to minimize damage. Trees that receive damage to branches shall be trimmed of those branches to improve the appearance of the tree. Tree trunks receiving damage from equipment shall be treated with a tree dressing.

All proposed change orders to the construction contract must comply with DOW Procurement Guidance for Construction and Equipment Contracts. In addition, proposed change orders exceeding \$100,000 will require cost, pricing, and certification as required by DOW Procurement Guidance for Construction and Equipment Contracts.

The Contractor is required to employ the Six Good Faith Efforts as defined by the EPA to increase Disadvantaged Business Enterprise (DBE) awareness of all procurement opportunities which may result from the construction of the Project. Detailed information related to this requirement is included in Attachment No. 11 of the Supplemental General Conditions for DWSRF.

A complete bid package consist of the Bid Form, Bid Bond and the Bid Submittal Reference List. Any other documents or forms shall be requested at a later date.

The Owner reserves the right to increase, reduce, or eliminate any of the quantities of the Bid Items.

The Contract shall be awarded on the basis of the Base Bid.



**BID SUBMITTAL REFERENCE LIST**  
**WATER SYSTEM IMPROVEMENTS & REPLACEMENTS:**  
**CONTRACT 3 – LEES FORD AREA**  
**WESTERN PULASKI COUNTY WATER DISTRICT**  
**BID OPENING: OCTOBER 19, 2021, @ 5:00 PM, LOCAL TIME**

<b>JOB NAME</b>	<b>APPROXIMATE DATE OF COMPLETION</b>	<b>APPROXIMATE COST</b>	<b>NAME OF UTILITY &amp; CONTACT PERSON</b>	<b>NAME OF ENGINEER &amp; CONTACT PERSON</b>
<b>JOB NO. 1</b>				
<b>JOB NO. 2</b>				
<b>JOB NO. 3</b>				

# Bid Form

Project Identification: Water System Improvements & Replacements:  
Contract 3 – Lees Ford Area

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### ARTICLE 1 - BID RECIPIENT

- 1.01 This Bid Is Submitted To: Don Calder, Chairman  
Western Pulaski County Water District  
2128 West Highway 80  
Somerset, Kentucky 42503
- 1.02 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 and within the times indicated in the Bid and in accordance with the other terms and conditions of the Bidding Documents.

### ARTICLE 2 - BIDDER'S ACKNOWLEDGMENTS

- 2.01 Bidder accepts all of the terms and conditions of the Advertisement and Instructions to Bidders, including without limitations those dealing with the dispositions of Bid security. The Bid will remain subject to acceptance for 90 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informality associated with the receipt of bids.

**ARTICLE 3 - BIDDER'S REPRESENTATIONS**

3.01 In submitting this Bid, Bidder represents that:

- A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged.

Addendum No.	Addendum Date
_____	_____
_____	_____
_____	_____

- 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 Federal, State, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in SC-4.02, and (2) reports and drawings of a Hazard Environmental Condition, if any, which has been identified in SC-4.06.
- E. Bidder has obtained and carefully studied (or accepts the consequences for not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by the Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.
- F. Bidder does not consider that any 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 and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is 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. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.

- I. 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.
- J. 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.
- K. Bidder will submit written evidence of its authority to do business in the State where the Project is located not later than the date of its execution of the Agreement.

#### **ARTICLE 4 - FURTHER REPRESENTATIONS**

4.01 Bidder further represents that:

- A. This Bid is genuine and not made in the interest of or on the behalf of any undisclosed individual or entity and is not submitted in conformity with any 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 sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

**ARTICLE 5 - BASIS OF BID**

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

**BID SCHEDULE**

Notes: BIDS shall include sales tax and all other applicable taxes and fees.  
 The CONTRACT shall be awarded to the lowest, responsive, responsible BIDDER.  
 The CONTRACT shall be awarded based on the lowest **BASE BID**

**BASE BID CONTRACT**

Item No.	Description	Quantity	Unit Price	Total Cost
1	12-Inch Ductile Iron CL350 Water Line	2,400 LF	\$ _____	\$ _____
2	Bore & Case for 12-Inch Water Line	60 LF	\$ _____	\$ _____
3	Free Bore for 12-Inch Water Line	20 LF	\$ _____	\$ _____
4	12-Inch Gate Valve	1 EA	\$ _____	\$ _____
5	8-Inch Gate Valve	1 EA	\$ _____	\$ _____
6	6-Inch Gate Valve	1 EA	\$ _____	\$ _____
7	2-Way Flush Hydrant Assembly	1 EA	\$ _____	\$ _____
8	Connection	3 EA	\$ _____	\$ _____
9	Cut & Cap Existing 8-Inch Water Line	1 EA	\$ _____	\$ _____
10	Cut & Cap Existing 6-Inch Water Line	2 EA	\$ _____	\$ _____
11	Meter Reconnection	13 EA	\$ _____	\$ _____
12	¾-Inch HDPE Service Line	1,050 LF	\$ _____	\$ _____
13	1-Inch HDPE Service Line	60 LF	\$ _____	\$ _____
14	Exploration	10 HR	\$ _____	\$ _____
<b>TOTAL BASE BID</b>			<b>\$ _____</b>	

The CONTRACT shall be awarded based on the lowest BASE BID. If applicable, Additive Alternates may also be awarded in conjunction with the Base Bid Contract at the discretion of the OWNER if adequate funding is available.

The above unit prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

- A. Unit Prices have been computed in accordance with paragraph 11.03.A of the General Conditions.
- B. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the contract Documents.

Upon receipt of written notice of the acceptance of this bid, BIDDER will execute the formal contract attached within 10 days and deliver a SURETY BOND or BONDS as required by these documents. The bid security in the sum of \_\_\_\_\_ is to become the property of the OWNER in the event that the CONTRACT and BOND are not executed within the time set forth, as liquidated damages for the delay and additional expense to the OWNER caused thereby.

#### **ARTICLE 6 - TIME OF COMPLETION**

- 6.01 Bidder agrees that the Work will be substantially complete in accordance with paragraph 14.04 of the General Conditions on or before the contract date or within the number of calendar days indicated in the Agreement.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the work within the Contract Times.

#### **ARTICLE 7 - ATTACHMENTS TO THIS BID**

- 7.01 The following documents are attached to and made a condition of the Bid:
  - A. Required Bid security in the form of a Bid Bond (EJCDC No. C-430) or Certified Check (circle type of security provided);
  - B. If Bid amount exceeds \$10,000, signed Compliance Statement (RD 400-6). Refer to specific equal opportunity requirements set forth in paragraph 18.10 of the General Conditions;
  - C. If Bid amount exceeds \$25,000, signed Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (AD-1048);
  - D. If Bid amount exceeds \$100,000, signed RD Instruction 1940-Q, Exhibit A-1, Certification for Contracts, Grants, and Loans. Refer to paragraph 18.11 of the General Conditions;

#### **ARTICLE 8 - DEFINED TERMS**

- 8.01 The terms used in this Bid with the initial capital letters have the meanings indicated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

**ARTICLE 9 - BID SUBMITTAL**

9.01 This Bid submitted by:

Name (typed or printed): \_\_\_\_\_

By: \_\_\_\_\_  
*(Individual's signature)*

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

Bidder's Business address:  
\_\_\_\_\_  
\_\_\_\_\_

Business Phone No. (\_\_\_\_\_) \_\_\_\_\_

Business FAX No. (\_\_\_\_\_) \_\_\_\_\_

Business E-Mail Address  
\_\_\_\_\_

State Contractor License No. \_\_\_\_\_ . (If applicable)

Employer's Tax ID No. \_\_\_\_\_

Phone and FAX Numbers, and Address for receipt of official communications, if different from Business contact information:

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

9.02 Bid submitted on \_\_\_\_\_, 20\_\_.

## BID BOND

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

---

BIDDER (Name and Address):

SURETY (Name and Address of Principal Place of Business):

OWNER (Name and Address):

BID

Bid Due Date:

Project (Brief Description Including Location):

BOND

Bond Number:

Date (Not later than Bid due date):

Penal sum

\_\_\_\_\_ (Words)

\_\_\_\_\_ (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER

SURETY

\_\_\_\_\_  
Bidder's Name and Corporate Seal (Seal)

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

By: \_\_\_\_\_  
Signature and Title

By: \_\_\_\_\_  
Signature and Title  
(Attach Power of Attorney)

Attest: \_\_\_\_\_  
Signature and Title

Attest: \_\_\_\_\_  
Signature and Title



Note: Above addresses are to be used for giving required notice.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Surety's liability.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
  - 3.1. Owner accepts Bidder's Bid and Bidder fails to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
  - 3.2. All Bids are rejected by Owner, or
  - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

**CERTIFICATION FOR CONTRACTS, GRANTS AND LOANS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant or Federal loan, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant or loan.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant or loan, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including contracts, subcontracts, and subgrants under grants and loans) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transmission was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Title)

**U.S. DEPARTMENT OF AGRICULTURE**

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**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY  
AND VOLUNTARY EXCLUSION – LOWER TIER COVERD TRANSACTIONS**

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This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

**(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON  
REVERSE)**

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

---

Organization Name

PR/Award Number or Project Name

---

Name(s) and Title(s) of Authorized Representative(s)

---

Signature(s)

Date

### Instructions for Certification

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

## COMPLIANCE STATEMENT

This statement relates to a proposed contract with \_\_\_\_\_

\_\_\_\_\_  
*(Name of Borrower or Grantee)*

who expects to finance the contract with assistance from either the Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), or the Rural Utilities Service (RUS) or their successor agencies, United States Department of Agriculture (whether by a loan, grant, loan insurance, guarantee, or other form of financial assistance). I am the undersigned bidder or prospective contractor. I represent that:

1. I  have,  have not, participated in a previous contract or subcontract subject to Executive Order 11246 (regarding equal employment opportunity) or a preceding similar Executive Order.
2. If I have participated in such a contract or subcontract, I  have,  have not, filed all compliance reports that I have been required to file in connection with the contract or subcontract.

If the proposed contract is for \$50,000 or more and I have 50 or more employees, I also represent that:

3. I  have,  have not previously had contracts subject to the written affirmative action program requirements of the Secretary of Labor.
4. If I have participated in such a contract or subcontract, I  have,  have not, developed and placed on file at each establishment affirmative action programs as required by the rules and regulations of the Secretary of Labor.

I understand that if I have failed to file any compliance reports that have been required of me, I am not eligible and will not be eligible to have my bid considered or to enter into the proposed contract unless and until I make an arrangement regarding such reports that is satisfactory to either the RHS, RBS or RUS, or to the office where the reports are required to be filed.

I also certify that I do not maintain or provide for my employees any segregated facilities at any of my establishments, and that I do not permit my employees to perform their services at any location, under my control, where segregated facilities are maintained. I certify further that I will not maintain or provide for my employees any segregated facilities at any of my establishments, and that I will not permit my employees to perform their services at any location, under my control, where segregated facilities are maintained. I agree that a breach of this certification is a violation of the Equal Opportunity clause in my contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by

explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. I further agree that (except where I have obtained identical certifications for proposed subcontractors for specific time periods) I will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that I will retain such certifications in my files; and that I will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR  
CERTIFICATIONS OF NON-SEGREGATED FACILITIES**

A certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

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

\_\_\_\_\_  
*Signature of Bidder or Prospective Contractor*

\_\_\_\_\_  
*Address (including Zip Code)*

**CERTIFICATION FOR AMERICAN IRON & STEEL REQUIREMENT**

The Contractor acknowledges to and for the benefit of the Western Pulaski County Water District (“Purchaser”) and the Commonwealth of Kentucky (the “State”) that it understands the goods and services under this Contract are being funded with monies made available by the Clean Water State Revolving Fund and/or Drinking Water State Revolving Fund that have statutory requirements commonly known as “American Iron and Steel;” that requires all of the iron and steel products used in the project to be produced in the United States (“American Iron and Steel Requirement”) including iron and steel products provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Purchaser or the State. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney’s fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

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Contractor Name

PR/Award Number or Project Name

---

Name(s) and Title(s) of Authorized Representative(s)

---

Signature(s)

Date

**NOTICE OF AWARD**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROJECT:                   Water System Improvements & Replacements:  
  Contract 3 – Lees Ford Area

The OWNER has considered the BID submitted by you for the above described WORK in response to its Advertisement for Bids dated \_\_\_\_\_, 2021, and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of \$ \_\_\_\_\_.

You are required by the Information for Bidders to execute the Agreement and furnish the required CONTRACTOR'S Performance BOND, Payment BOND and certificates of insurance within ten (10) calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said BONDS within ten (10) days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out of the OWNER's acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this \_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_ Western Pulaski County Water District  
*Owner*

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

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

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE OF AWARD is hereby acknowledged by

\_\_\_\_\_, this the \_\_\_ day of \_\_\_\_\_, 2021.  
*Contractor*

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

Title \_\_\_\_\_



**AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR  
CONSTRUCTION CONTRACT (STIPULATED PRICE)  
FUNDING AGENCY EDITION**

THIS AGREEMENT is by and between Western Pulaski Co. Water District (Owner)  
and \_\_\_\_\_ (Contractor).

Owner and Contractor, in consideration of the mutual covenants set forth herein, agree as follows:

**ARTICLE 1 - WORK**

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Water System Improvements & Replacements:  
Contract 3 – Lees Ford Area

**ARTICLE 2 - THE PROJECT**

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Water System Improvements & Replacements:  
Contract 3 – Lees Ford Area

**ARTICLE 3 - ENGINEER**

3.01 The Project has been designed by Monarch Engineering, Inc., 556 Carlton Drive, Lawrenceburg, KY 40342, telephone number 502/839-1310.

**ARTICLE 4 - CONTRACT TIMES**

**4.01 Time of the Essence**

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

**4.02 Days to Achieve Substantial Completion and Final Payment**

A. The Work will be substantially completed within 180 days after the date when the Contract Time commences to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment at a date determined by Owner, Contractor, and Engineer after substantial completion, based on remaining work, weather and market conditions.

4.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence on this Project and that the Owner will suffer financial loss if the Work is not substantially completed within the times specified in Paragraph 4.02 above, plus any extensions allowed in accordance with Article 12 of the General Conditions. Accordingly, Contractor shall pay Owner \$1,000.00 for each day that expires after the time specified in Paragraph 4.02 until the work is substantially complete. After substantial completion, retainage may be reduced to an amount agreed upon by Owner, Contractor, and Engineer. It should be no less than 150% of the amount required for the completion and ready for final payment. Liquidated damages may not be assessed after substantial completion has been achieved.

ARTICLE 5 - CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A. All specific cash allowances are included in the prices and have been computed in accordance with Paragraph 11.02 of the General Conditions.

As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 9.07 of the General Conditions. Unit prices have been computed as provided in Paragraph 11.03 of the General Conditions.

- A. For all Work at the prices stated in Contractor's Bid, included in Contract Documents.

Contract Amount \_\_\_\_\_ (\$ \_\_\_\_\_).

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 15th of each month during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions:
  - a. 95 percent of Work completed (with the balance being retainage); and
  - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, plus any reduction in retainage that has been agreed upon by Owner, Contractor and Engineer.

### 6.03 Final Payment

- A. Upon receipt of the final Application for Payment accompanied by Engineer's recommendation of payment in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay Contractor as provided in Paragraph 14.07 of the General Conditions the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages.

## ARTICLE 7 - INTEREST

- 7.01 All moneys not paid when due as provided in the General Conditions shall bear interest at the maximum legal rate.

## ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:
  - A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
  - B. Contractor 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. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
  - D. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods,

techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.

- E. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- F. Contractor 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 Contract Documents.
- G. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## ARTICLE 9 - CONTRACT DOCUMENTS

### 9.01 Contents

- A. The Contract Documents consist of the following:
  - 1. This Agreement
  - 2. Performance Bond
  - 3. Payment Bond
  - 4. Other bonds
  - 5. General Conditions
  - 6. Supplementary Conditions
  - 7. Specifications as listed in the table of contents of the Project Manual.
  - 8. Drawings consisting of 7 sheets.
  - 9. Addenda, if applicable
  - 10. Exhibits to this Agreement (enumerated as follows):
    - a. Notice to Proceed
    - b. Contractor's Bid
    - c. Documentation submitted by Contractor prior to Notice of Award
    - d. \_\_\_\_\_.

11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
  - a. Notice to Proceed
  - b. Work Change Directives.
  - c. Change Order(s).
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

## ARTICLE 10 - MISCELLANEOUS

### 10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

### 10.02 Assignment of Contract

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

### 10.03 Successors and Assigns

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

### 10.04 Severability

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

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in six copies. One counterpart each has been delivered to Owner, Contractor, Engineer, and Agency. All portions of the Contract Documents have been signed, initialed, or identified by Owner and Contractor or identified by Engineer on their behalf.

This Agreement will be effective \_\_\_\_\_, 2021 (which is the Effective Date of the Agreement).  
This Agreement shall not be effective unless and until Agency's designated representative concurs.

OWNER:

CONTRACTOR:

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

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

Title: Chairman, Western Pulaski Co. Water District

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

[CORPORATE SEAL]

[CORPORATE SEAL]

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

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

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

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

Designated Representatives:

Designated Representatives:

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

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

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

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

Address for giving notices:

Address for giving notices:

2128 West Highway 80

\_\_\_\_\_

Somerset, Kentucky 42503

\_\_\_\_\_

Phone: 606-679-1569 FAX: 606-677-9449

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Agreement.)

License No.: \_\_\_\_\_  
(Where applicable)

Agent for service or process: \_\_\_\_\_

(If Contractor is a corporation or a partnership, attach evidence of authority to sign.)

Agency Concurrence:

As lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, the Agency hereby concurs in the form, content, and execution of this Agreement.

Agency: \_\_\_\_\_

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

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

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

# PERFORMANCE BOND

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

---

CONTRACTOR (Name and Address):      SURETY (Name and Address of Principal Place of Business):

OWNER (Name and Address):

## CONTRACT

Date:

Amount:

Description (Name and Location):

## BOND

Bond Number:

Date (Not earlier than Contract Date):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

### CONTRACTOR AS PRINCIPAL

Company:

Signature: \_\_\_\_\_ (Seal)

Name and Title:

### SURETY

\_\_\_\_\_  
(Seal)

Surety's Name and Corporate Seal

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

Signature and Title

(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

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

Signature and Title

### CONTRACTOR AS PRINCIPAL

Company:

Signature: \_\_\_\_\_ (Seal)

Name and Title:

### SURETY

\_\_\_\_\_  
(Seal)

Surety's Name and Corporate Seal

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

Signature and Title

(Attach Power of Attorney)

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

Signature and Title:

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.
2. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 3.1.
3. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
  - 3.1. Owner has notified Contractor and Surety, at the addresses described in Paragraph 10 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
  - 3.2. Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 3.1; and
  - 3.3. Owner has agreed to pay the Balance of the Contract Price to:
    1. Surety in accordance with the terms of the Contract;
    2. Another contractor selected pursuant to Paragraph 4.3 to perform the Contract.
4. When Owner has satisfied the conditions of Paragraph 3, Surety shall promptly and at Surety's expense take one of the following actions:
  - 4.1. Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
  - 4.2. Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
  - 4.3. Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and Contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
  - 4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
    1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
    2. Deny liability in whole or in part and notify Owner citing reasons therefor.
5. If Surety does not proceed as provided in Paragraph 4 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 4.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.
6. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To a limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:
  - 6.1. The responsibilities of Contractor for correction of defective Work and completion of the Contract;
  - 6.2. Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions or failure to act of Surety under Paragraph 4; and
  - 6.3. Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.
7. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the 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 Owner or its heirs, executors, administrators, or successors.
8. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
  - 12.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
  - 12.2. Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
  - 12.3. Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
  - 12.4. Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

**FOR INFORMATION ONLY – Name, Address and Telephone  
 Surety Agency or Broker:  
 Owner's Representative (engineer or other party):**



# PAYMENT BOND

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

---

CONTRACTOR (Name and Address):

SURETY (Name and Address of Principal Place of Business):

OWNER (Name and Address):

## CONTRACT

Date:

Amount:

Description (Name and Location):

## BOND

Bond Number:

Date (Not earlier than Contract Date):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Company:

Signature: \_\_\_\_\_ (Seal)

Name and Title:

\_\_\_\_\_  
(Seal)

Surety's Name and Corporate Seal

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

Signature and Title

(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

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

Signature and Title

CONTRACTOR AS PRINCIPAL

SURETY

Company:

Signature: \_\_\_\_\_ (Seal)

Name and Title:

\_\_\_\_\_  
(Seal)

Surety's Name and Corporate Seal

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

Signature and Title

(Attach Power of Attorney)

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

Signature and Title:

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
  - 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
  - 2.2. Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
  - 4.1. Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the addresses described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
  - 4.2. Claimants who do not have a direct contract with Contractor:
    1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
    2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
    3. Not having been paid within the above 30 days, have sent a written notice to Surety and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:
  - 6.1. Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
  - 6.2. Pay or arrange for payment of any undisputed amounts.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.
9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related Subcontracts, purchase orders and other obligations.
11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, 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.
12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.
14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
15. DEFINITIONS
  - 15.1. Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's Subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
  - 15.2. Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
  - 15.3. Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

**FOR INFORMATION ONLY – Name, Address and Telephone**  
**Surety Agency or Broker:**  
**Owner's Representative (engineer or other party):**

**NOTICE TO PROCEED**

TO: \_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ PROJECT: Water System Improvements &  
Replacements: Contract 3 – Lees Ford Area

You are hereby notified to commence WORK in accordance with the Agreement dated \_\_\_\_\_, 2021, on or before \_\_\_\_\_, 2021, and you are to complete the WORK within 180 consecutive calendar days thereafter. The date of completion of all WORK is therefore \_\_\_\_\_, 20\_\_\_\_.

Dated this \_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Western Pulaski County Water District

By: \_\_\_\_\_ Don Calder  
Title: \_\_\_\_\_ Chairman

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE OF AWARD is hereby acknowledged by  
\_\_\_\_\_, this the \_\_\_ day of \_\_\_\_\_, 2021.  
Contractor

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

Employer Identification Number: \_\_\_\_\_

# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT FUNDING AGENCY EDITION

*Prepared by*

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly By



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE  
*a practice division of the*  
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN COUNCIL OF ENGINEERING COMPANIES

AMERICAN SOCIETY OF CIVIL ENGINEERS

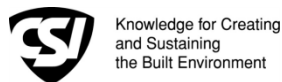
This document has been approved and endorsed by

The Associated General Contractors of America



and the

Construction Specification Institute



These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor Funding Agency Edition No. C-521 (2002 Edition). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the EJCDC Construction Documents, General and Instructions (No. C-001, 2002 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. C-800, 2002 Edition).

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# GENERAL CONDITIONS

## DEFINITIONS AND TERMINOLOGY

### *Defined Terms*

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

*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.

*Agency* – The Federal or state agency named as such in the Agreement.

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

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

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

*Bid* – The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

*Bidder* – The individual or entity who submits a Bid directly to Owner.

*Bidding Documents* – The Bidding Requirements and the proposed Contract Documents (including all Addenda).

*Bidding Requirements* – The Advertisement or Invitation to Bid, Instructions to Bidders, bid security of acceptable form, if any, and the Bid Form with any supplements.

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

*Claim* – A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

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

*Contract Documents* – Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other



Contractor's submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

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

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

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

*Cost of the Work* – See Paragraph 11.01.A for definition.

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

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

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

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

*General Requirements* – Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

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

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

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

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

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

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

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

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

*PCBs* – Polychlorinated biphenyls.

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

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

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

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

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

*Related Entity* – An officer, director, partner, employee, agent, consultant, or subcontractor.

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

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

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

*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.

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

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

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

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

*Substantial Completion* – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.

*Successful Bidder* – The Bidder submitting a responsive Bid to whom Owner makes an award.

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

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

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

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

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

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

### *Terminology*

The following words or terms are not defined but, when used in the Bidding Requirements or Contract Documents, have the following meaning.

#### *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 requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective

is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

*Day*

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

*Defective*

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

does not conform to the Contract Documents, or

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

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

*Furnish, Install, Perform, Provide*

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

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

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

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

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

**PRELIMINARY MATTERS**

*Delivery of Bonds and Evidence of Insurance*

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

*Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional

insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

#### *Copies of Documents*

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

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

The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement.

#### *Starting the Work*

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

#### *Before Starting Construction*

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

a preliminary Progress Schedule;

a preliminary Schedule of Submittals; and

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.

#### *Preconstruction Conference*

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

#### *Initial Acceptance of Schedules*

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

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.

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

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

## **CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE**

### *Intent*

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

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

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

### *Reference Standards*

#### *Standards, Specifications, Codes, Laws, and Regulations*

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

No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, or Engineer, or any of their Related Entities, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

### *Reporting and Resolving Discrepancies*

#### *Reporting Discrepancies*

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

*Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, Contractor shall promptly report it to

Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

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 knew or reasonably should have known thereof.

#### Resolving Discrepancies

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

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

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).

#### *Amending and Supplementing Contract Documents*

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

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

A Field Order;

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

Engineer's written interpretation or clarification.

#### *Reuse of Documents*

Contractor and any Subcontractor or Supplier shall not:

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 Engineer's consultants, including electronic media editions; or

reuse any of 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 adaption by Engineer.

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

### *Electronic Data*

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

Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.

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

## **AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS**

### *Availability of Lands*

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

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

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

### *Subsurface and Physical Conditions*

*Reports and Drawings:* The Supplementary Conditions identify:

those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Contract Documents; and

those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that Engineer has used in preparing the Contract Documents.

*Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary



Conditions. Except for such reliance on such “technical data,” Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities with respect to:

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

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

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

#### *Differing Subsurface or Physical Conditions*

*Notice:* If Contractor believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

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

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

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

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

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

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

#### *Possible Price and Times Adjustments*

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

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

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

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

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

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

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

If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, Owner and Engineer, and any of their Related Entities shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

### *Underground Facilities*

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

Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data; and

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

reviewing and checking all such information and data,

locating all Underground Facilities shown or indicated in the Contract Documents,

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

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

### *Not Shown or Indicated*

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

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

#### *Reference Points*

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.

#### *Hazardous Environmental Condition at Site*

*Reports and Drawings:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the Engineer in the preparation of the Contract Documents.

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

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

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

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

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

If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner

shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any.

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

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

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

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

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

## **BONDS AND INSURANCE**

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

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

All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the 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 Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent must be accompanied by a certified copy of the agent's authority to act.

If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

#### *Licensed Sureties and Insurers*

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

#### *Certificates of Insurance*

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

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

#### *Contractor's Liability Insurance*

Contractor shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

claims under workers' compensation, disability benefits, and other similar employee benefit acts;

claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

claims for damages insured by reasonably available personal injury liability coverage which are sustained:

by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

by any other person for any other reason;

claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

The policies of insurance required by this Paragraph 5.04 shall:

with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

include completed operations insurance;

include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment.

Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

#### *Owner's Liability Insurance*

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

#### *Property Insurance*

Unless otherwise provided in the Supplementary Conditions, 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:

include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners,

employees, agents, 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 additional insured;

be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

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;

allow for partial utilization of the Work by Owner;

include testing and startup; and

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 additional insured to whom a certificate of insurance has been issued.

Contractor shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, 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 an insured or additional insured.

All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

#### *Waiver of Rights*

Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of

any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insured or additional insured (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Contractor as trustee or otherwise payable under any policy so issued.

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

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

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

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

#### *Receipt and Application of Insurance Proceeds*

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

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

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

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



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

#### *Partial Utilization, Acknowledgment of Property Insurer*

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

### **CONTRACTOR'S RESPONSIBILITIES**

#### *Supervision and Superintendence*

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

At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances. The superintendent will be Contractor's representative at the Site and shall have authority to act on behalf of Contractor. All communications given to or received from the superintendent shall be binding on Contractor.

#### *Labor; Working Hours*

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

Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

#### *Services, Materials, and Equipment*

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.

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

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

### *Progress Schedule*

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

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

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

### *Substitutes and "Or-Equals"*

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

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

in the exercise of reasonable judgment Engineer determines that:

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

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

it has a proven record of performance and availability of responsive service; and

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

there will be no increase in cost to the Owner or increase in Contract Times, and

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

#### Substitute Items

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

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

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

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

shall certify that the proposed substitute item will:

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

be similar in substance to that specified, and

be suited to the same use as that specified;

will state:

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

whether or not 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

whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

will identify:

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

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

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

*Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or

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

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

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

*Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute item so proposed or submitted by Contractor, Contractor shall reimburse Owner for the charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the 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.

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

#### *Concerning Subcontractors, Suppliers, and Others*

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

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

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

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

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

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

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

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

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

#### *Patent Fees and Royalties*

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

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, 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.

### *Permits*

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

### *Laws and Regulations*

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

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

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

### *Taxes*

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.

### *Use of Site and Other Areas*

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

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

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

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys,

and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

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

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

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

#### *Record Documents*

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

#### *Safety and Protection*

Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

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

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

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

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

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

Engineer or , 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).

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

#### *Safety Representative*

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

#### *Hazard Communication Programs*

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

#### *Emergencies*

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

#### *Shop Drawings and Samples*

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

##### *Shop Drawings*

Submit number of copies specified in the General Requirements.

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

##### *Samples*

Submit number of Samples specified in the Specifications.

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



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.

#### *Submittal Procedures*

Before submitting each Shop Drawing or Sample, Contractor shall have determined and verified:

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

the suitability of all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

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

shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

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

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

#### *Engineer's Review*

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

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

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

### *Resubmittal Procedures*

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.

### *Continuing the Work*

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

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

Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its Related Entities shall be entitled to rely on representation of Contractor's warranty and guarantee.

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

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

normal wear and tear under normal usage.

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

observations by Engineer;

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

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

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

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

any inspection, test, or approval by others; or

any correction of defective Work by Owner.

### *Indemnification*

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other

professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.

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

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

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

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

#### *Delegation of Professional Design Services*

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

If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

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

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

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

## **OTHER WORK AT THE SITE**

### *Related Work at Site*

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

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

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

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

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

### *Coordination*

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

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

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

the extent of such authority and responsibilities will be provided.

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

### *Legal Relationships*

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

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

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

## **OWNER'S RESPONSIBILITIES**

### *Communications to Contractor*

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

### *Replacement of Engineer*

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

### *Furnish Data*

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

### *Pay When Due*

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

### *Lands and Easements; Reports and Tests*

Owner's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by Engineer in preparing the Contract Documents.

### *Insurance*

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

### *Change Orders*

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

### *Inspections, Tests, and Approvals*

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

### *Limitations on Owner's Responsibilities*

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.

### *Undisclosed Hazardous Environmental Condition*

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

### *Evidence of Financial Arrangements*

If and to the extent Owner has agreed to furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents, Owner's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

## **ENGINEER'S STATUS DURING CONSTRUCTION**

### *Owner's Representative*

Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents and will not be changed without written consent of Owner and Engineer.

### *Visits to Site*

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.

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

### *Project Representative*

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

consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

#### *Authorized Variations in Work*

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

#### *Rejecting Defective Work*

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

#### *Shop Drawings, Change Orders and Payments*

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

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

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

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

#### *Determinations for Unit Price Work*

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

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

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

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

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

When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

#### *Limitations on Engineer's Authority and Responsibilities*

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

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.

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.

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

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

## **CHANGES IN THE WORK; CLAIMS**

### *Authorized Changes in the Work*

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

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



### *Unauthorized Changes in the Work*

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

### *Execution of Change Orders*

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

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

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

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

### *Notification to Surety*

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

### *Claims*

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

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

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

deny the Claim in whole or in part,

approve the Claim, or

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

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

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

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

## **COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

### *Cost of the Work*

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

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

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

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

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

Supplemental costs including the following:

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

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

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

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

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.

Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

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

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

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

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

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

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

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

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.

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

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

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

### *Allowances*

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.

#### Cash Allowances

Contractor agrees that:

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

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

#### *Contingency Allowance*

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

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

#### *Unit Price Work*

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.

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

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.

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

the Bid price of a particular item of Unit Price Work amounts to more than 5 percent of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than 25 percent from the estimated quantity of such item indicated in the Agreement; and

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

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

### **CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES**

#### *Change of Contract Price*

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

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

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

where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of

the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

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

a mutually acceptable fixed fee; or

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:

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

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

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 Paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

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

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

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

#### *Change of Contract Times*

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

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

#### *Delays*

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

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

adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

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

delays caused by or within the control of Contractor; or

Owner, Engineer and the Related Entities of each of them shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of Engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

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

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

### *Notice of Defects*

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

### *Access to Work*

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

### *Tests and Inspections*

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

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

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

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

as otherwise specifically provided in the Contract Documents.

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.

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

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, it must, if requested by Engineer, be uncovered for observation.

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

#### *Uncovering Work*

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

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

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

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

#### *Owner May Stop the Work*

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



### *Correction or Removal of Defective Work*

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

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

### *Correction Period*

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

repair such defective land or areas; or

correct such defective Work; or

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

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

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

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.

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

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

### *Acceptance of Defective Work*

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

### *Owner May Correct Defective Work*

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

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

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

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

## **PAYMENTS TO CONTRACTOR AND COMPLETION**

### *Schedule of Values*

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

## *Progress Payments*

### *Applications for Payments*

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

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

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

### *Review of Applications*

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

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 on the Site 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:

the Work has progressed to the point indicated;

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

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.

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

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

that 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.

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:

to supervise, direct, or control the Work, or

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

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

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

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

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

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

the Contract Price has been reduced by Change Orders;

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

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

#### *Payment Becomes Due*

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

#### *Reduction in Payment*

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

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

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;

the Contractor's performance or furnishing of the Work is inconsistent with funding Agency requirements;

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

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

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

If it is subsequently determined that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1.

#### *Contractor's Warranty of Title*

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

#### *Substantial Completion*

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

Promptly after Contractor's notification, Owner, Agency, Contractor, and Engineer shall make a prefinal 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.

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

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

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

#### *Partial Utilization*

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.

Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor will certify to Owner and Engineer that such part of the Work is substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

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

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

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

#### *Final Inspection*

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, Agency, and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

#### *Final Payment*

##### *Application for Payment*

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

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

all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.7;

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

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

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

In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner or Owner's property might in any way be responsible 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.

#### *Engineer's Review of Application and Acceptance*

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

#### *Payment Becomes Due*

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

#### *Final Completion Delayed*

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

#### *Waiver of Claims*

The making and acceptance of final payment will constitute:

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

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

## **SUSPENSION OF WORK AND TERMINATION**

### *Owner May Suspend Work*

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

### *Owner May Terminate for Cause*

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

Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);

Contractor's disregard of Laws or Regulations of any public body having jurisdiction;

Contractor's disregard of the authority of Engineer; or

Contractor's violation in any substantial way of any provisions of the Contract Documents.

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

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

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.

If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in



a Change Order. When exercising any rights or remedies under this Paragraph Owner shall not be required to obtain the lowest price for the Work performed.

Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B, and 15.02.C.

#### *Owner May Terminate For Convenience*

Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

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;

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;

all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

reasonable expenses directly attributable to termination.

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

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

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

In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to

preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

## **DISPUTE RESOLUTION**

### *Methods and Procedures*

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

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

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

elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions, or

agrees with the other party to submit the Claim to another dispute resolution process, or

gives written notice to the other party of their intent to submit the Claim to a court of competent jurisdiction.

## **MISCELLANEOUS**

### *Giving Notice*

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

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

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

### *Computation of Times*

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

### *Cumulative Remedies*

The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a

limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

#### *Survival of Obligations*

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

#### *Controlling Law*

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

#### *Headings*

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

### **FEDERAL REQUIREMENTS**

#### *Agency Not a Party*

This Contract is expected to be funded in part with funds provided by Agency. Neither Agency, nor any of its departments, entities, or employees is a party to this Contract.

#### *Contract Approval*

Owner and Contractor will furnish Owner's attorney such evidence as required so that Owner's attorney can complete and execute the following "Certificate of Owner's Attorney" (Exhibit GC-A) before Owner submits the executed Contract Documents to Agency for approval.

Concurrence by Agency in the award of the Contract is required before the Contract is effective.

#### *Conflict of Interest*

Contractor may not knowingly contract with a supplier or manufacturer if the individual or entity who prepared the plans and specifications has a corporate or financial affiliation with the supplier or manufacturer.

Owner's officers, employees, or agents shall not engage in the award or administration of this Contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: (i) the employee, officer or agent; (ii) any member of their immediate family; (iii) their partner or (iv) an organization that employs, or is about to employ, any of the above, has a financial interest in Contractor. Owner's officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from Contractor or subcontractors.

#### *Gratuities*

If Owner finds after a notice and hearing that Contractor, or any of Contractor's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise) to any official, employee, or agent of Owner or Agency in an attempt to secure this Contract or favorable treatment in awarding,

amending, or making any determinations related to the performance of this Contract, Owner may, by written notice to Contractor, terminate this Contract. Owner may also pursue other rights and remedies that the law or this Contract provides. However, the existence of the facts on which Owner bases such findings shall be an issue and may be reviewed in proceedings under the dispute resolution provisions of this Contract.

In the event this Contract is terminated as provided in paragraph 18.04.A, Owner may pursue the same remedies against Contractor as it could pursue in the event of a breach of this Contract by Contractor. As a penalty, in addition to any other damages to which it may be entitled by law, Owner may pursue exemplary damages in an amount (as determined by Owner) which shall not be less than three nor more than ten times the costs Contractor incurs in providing any such gratuities to any such officer or employee.

#### *Audit and Access to Records*

For all negotiated contracts and negotiated modifications (except those of \$10,000 or less), Owner, Agency, the Comptroller General, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Contractor, which are pertinent to the Contract, for the purpose of making audits, examinations, excerpts and transcriptions. Contractor shall maintain all required records for three years after final payment is made and all other pending matters are closed.

#### *Small, Minority and Women's Businesses*

If Contractor intends to let any subcontracts for a portion of the work, Contractor shall take affirmative steps to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction, and services. Affirmative steps shall consist of: (1) including qualified small, minority and women's businesses on solicitation lists; (2) assuring that small, minority and women's businesses are solicited whenever they are potential sources; (3) dividing total requirements when economically feasible, into small tasks or quantities to permit maximum participation of small, minority, and women's businesses; (4) establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority and women's businesses; (5) using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce; (6) requiring each party to a subcontract to take the affirmative steps of this section; and (7) Contractor is encouraged to procure goods and services from labor surplus area firms.

#### *Anti-Kickback*

Contractor shall comply with the Copeland Anti-Kickback Act (18 USC 874 and 40 USC 276c) as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Buildings or Public Works Financed in Whole or in Part by Loans or Grants of the United States"). The Act provides that Contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public facilities, to give up any part of the compensation to which they are otherwise entitled. Owner shall report all suspected or reported violations to Agency.

#### *Clean Air and Pollution Control Acts*

If this Contract exceeds \$100,000, Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 USC 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 USC 1251 *et seq.*). Contractor will report violations to the Agency and the Regional Office of the EPA.

### *State Energy Policy*

Contractor shall comply with the Energy Policy and Conservation Act (P.L. 94-163). Mandatory standards and policies relating to energy efficiency, contained in any applicable State Energy Conservation Plan, shall be utilized.

### *Equal Opportunity Requirements*

If this Contract exceeds \$10,000, Contractor shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Contractor's compliance with Executive Order 11246 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative active obligations required by the Standard Federal Equal Employment Opportunity Construction Contract Specifications, as set forth in 41 CFR Part 60-4 and its efforts to meet the goals established for the geographical area where the Contract is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the Contract, and in each trade, and Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting Contractor's goals shall be a violation of the Contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the Contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the Contract is to be performed.

### *Restrictions on Lobbying*

Contractor and each subcontractor shall comply with Restrictions on Lobbying (Public Law 101-121, Section 319) as supplemented by applicable Agency regulations. This Law applies to the recipients of contracts and subcontracts that exceed \$100,000 at any tier under a Federal loan that exceeds \$150,000 or a Federal grant that exceeds \$100,000. If applicable, Contractor must complete a certification form on lobbying activities related to a specific Federal loan or grant that is a funding source for this Contract. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 USC 1352. Each tier shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Certifications and disclosures are forwarded from tier to tier up to the Owner. Necessary certification and disclosure forms shall be provided by Owner.

### *Environmental Requirements*

When constructing a project involving trenching and/or other related earth excavations, Contractor shall comply with the following environmental constraints:

Wetlands – When disposing of excess, spoil, or other construction materials on public or private property, Contractor shall not fill in or otherwise convert wetlands.

Floodplains – When disposing of excess, spoil, or other construction materials on public or private property, Contractor shall not fill in or otherwise convert 100 year floodplain areas delineated on the latest Federal Emergency Management Agency Floodplain Maps, or other appropriate maps, i.e., alluvial soils on NRCS Soil Survey Maps.

Historic Preservation – Any excavation by Contractor that uncovers an historical or archaeological artifact shall be immediately reported to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the State Historic Preservation Officer (SHPO).

Endangered Species – Contractor shall comply with the Endangered Species Act, which provides for the protection of endangered and/or threatened species and critical habitat. Should any evidence of the presence of endangered and/or threatened species or their critical habitat be brought to the attention of Contractor, Contractor will immediately report this evidence to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the U.S. Fish and Wildlife Service.

**EXHIBIT GC-A**

Certificate of Owner's Attorney

I, the undersigned, \_\_\_\_\_, the duly authorized and acting legal representative of \_\_\_\_\_, do hereby certify as follows:

I have examined the attached Contract(s) and performance and payment bond(s) and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements is adequate and has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with the terms, conditions, and provisions thereof.

\_\_\_\_\_

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

# Supplementary Conditions

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract Funding Agency Edition (No. C-710, 2002 Edition) and other provisions of the Contract Documents as indicated below. All provisions not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions will have the meanings indicated 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.

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### **SC-1.01.A.2. Add the following language to the end of Paragraph 1.01.A.2:**

The Project is financed in whole or in part by USDA Rural Development pursuant to the Consolidated Farm and Rural Development Act (7 USC Section 1921 et seq.). *{add other funding sources and modify when necessary.}*

### **SC-1.01.A.4. Add the following language to the end of Paragraph 1.01.A.4:**

The Application for Payment form to be used on this Project is Form RD 1924-18. The Agency must approve all Applications for Payment before payment is made.

### **SC-1.01.A.10. Add the following language to the end of Paragraph 1.01.A.10:**

The Change Order form to be used on this Project is Form RD1927-7. Agency approval is required before Change Orders are effective.

### **SC-1.01.A.15. Delete in it's entirety and replace with the following:**

Contract Times: The number of days or date stated in the Agreement to achieve substantial completion. Final completion date will be determined by Contractor, Owner, and Engineer, after substantial completion, based on remaining work, weather and market conditions.



**SC-2.03.A. Delete Paragraph 2.03.A in its entirety and insert the following in its place:**

- A. The Contract Times will commence on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 10 days after the Effective Date of the Agreement.

**{SC-4.02. Add the following new paragraphs immediately after Paragraph 4.02.B:**

- C *In the preparation of Drawings and Specifications, Engineer relied upon the following reports of exploration and tests of subsurface conditions at the Site:*

- 1. *See EJCDC No.C-800 for examples.*

- D. *In the preparation of Drawings and Specifications, Engineer relied upon the following drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the Site:*

- 1. *See EJCDC No. C-800 for examples.*

- E. *Copies of reports and drawings itemized in SC-4.02.C and SC-4.02.D that are not included with Bidding Documents may be examined at \_\_\_\_\_ during regular business hours. These reports and drawings are not part of the Contract Documents, but the “technical data” contained therein upon which the Contractor may rely as identified and established above are incorporated therein by reference. Contractor is not entitled to rely upon other information and data utilized by Engineer in the preparation of the Drawings and Specifications.*

*{OR}*

**SC-4.02. Delete Paragraphs 4.02.A and 4.02.B in their entirety and insert the following:**

- A. *No reports or explorations or tests of subsurface conditions at or contiguous to the Site are known to the Owner or Engineer.*

**{SC-4.06. Add the following new paragraphs immediately after Paragraph 4.06.A:**

- 1. *In the preparation of Drawings and Specifications, Engineer relied upon the following reports of Hazardous Environmental Conditions at the Site:*

- a. *See EJCDC No.C-800 for examples.*

- 2. *In the preparation of Drawings and Specifications, Engineer relied upon the following drawings of Hazardous Environmental Conditions which are at or contiguous to the Site:*

- a. *See EJCDC No. C-800 for examples.*

- 3. *Copies of reports and drawings itemized in SC-4.06.A.1 and SC-4.06.A.2 that are not included with Bidding Documents may be examined at \_\_\_\_\_ during regular business hours. These reports and drawings are not part of the Contract Documents, but the “technical data” contained therein upon which the Contractor may rely as identified and established above are incorporated therein by reference. Contractor is not entitled to rely upon other information and data utilized by Engineer in the preparation of the Drawings and Specifications.*

*{OR}*

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

- A. *No reports or explorations or tests of subsurface conditions at or contiguous to the Site are known to the Owner or Engineer.*
- B. *{Not used.}*

**SC-5.03. Add the following new paragraph immediately after Paragraph 5.03.B:**

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

*{The amounts of coverage for each type of insurance under paragraph 5.04 are recommended amounts that should be used to provide the Owner adequate protection. These amounts should be reviewed in the context of the specific project and adjusted accordingly.}*

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

- C. The limits of liability for 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: Statutory
- b. Applicable Federal (e.g., Longshoremen's) Statutory
- c. Employer's Liability *{ \$ 500,000 }*

- 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 the Contractor:

- a. General Aggregate *{ \$ 2,000,000 }*
- b. Products – Completed Operations Aggregate *{ \$ 1,000,000 }*
- c. Personal and Advertising Injury *{ \$ 1,000,000 }*
- d. Each Occurrence (Bodily Injury and Property Damage) *{ \$ 1,000,000 }*
- e. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.
- f. Excess or Umbrella Liability
  - 1) General Aggregate *{ \$ 5,000,000 }*
  - 2) Each Occurrence *{ \$ 5,000,000 }*

3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:
- a. Bodily Injury:
    - Each Person { \$ 1,000,000 }
    - Each Accident { \$ 1,000,000 }
  - b. Property Damage:
    - Each Accident { \$ 1,000,000 }
  - c. Combined Single Limit of { \$ 1,000,000 }
4. The Contractual Liability coverage required by paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following amounts:
- a. Bodily Injury:
    - Each Person { \$ 2,000,000 }
    - Each Accident { \$ 2,000,000 }
  - b. Property Damage:
    - Each Accident { \$ 2,000,000 }
    - Annual Aggregate { \$ 2,000,000 }

*{5. List additional types and amounts of insurance that may be required by Owner.}*

*{6. List by name other persons or entities to be included on policy as additional insureds.}*

*{SC-5.06.A. In the case of multiple prime contractors on a single Site (multiple prime contractors for the Project may each need to provide property insurance), it is necessary to define the Contractor responsible for providing the Property Insurance. If there is only one contractor on the site, do not modify paragraph 5.06.A of the General Conditions.}*

*{SC-5.06.A.1. List by name other persons or entities to be included on policy as additional insureds.}*

**SC-6.06 Add a new paragraph immediately after Paragraph 6.06.G:**

- H. The Contractor shall not award work valued at more than fifty (50%) percent of the Contract Price to Subcontractor(s), without prior written approval of the Owner.

*{When multiple prime contractors are working on a single Site, the following modification should be made.}*

**SC-7.02.A.1. Delete paragraphs 7.02.A.1-3 in their entirety and insert the following:**

1. The \_\_\_\_\_ Contractor shall have the authority and be responsible for coordination of the activities among the other prime contractors and subcontractors on the Site to ensure a safe, efficient working environment. This authority covers scheduling delivery of materials, storage of materials, sequencing of construction involving different crafts, resolving interface issues between crafts, scheduling testing, and all other aspects of the Work that do not impact the design or function of the Work.

**SC-9.03.A. Add the following language at the end of paragraph 9.03.A:**

The Engineer will provide Resident Project Representative services for this project. The Duties, Responsibilities, and Limitations of Authority of the Resident Project Representative will be as stated in Exhibit D of the Agreement Between Owner and Engineer, E-510, 2002 Edition, as amended and executed for this specific Project. *{If anyone other than the Engineer is providing the Resident Project Representative, this language must be modified.}*

**SC-14.02.A.3 Add the following language at the end of paragraph 14.02.A.3:**

No payments will be made that would deplete the retainage prior to substantial completion, nor place in escrow any funds that are required for retainage, or invest the retainage for benefit.

**SC-14.02.C.1. Delete Paragraph 14.02.C.1 in its entirety and insert the following in its place:**

1. The Application for Payment with Engineer's recommendations will be presented to the Owner and Agency for consideration. If both the Owner and Agency find the Application for Payment acceptable, the recommended amount less any reduction under the provisions of Paragraph 14.02.D will become due thirty days after the Application for Payment is presented to the Owner, and the Owner will make payment to the Contractor.

**SC-18.08 Delete paragraph 18.08.A in its entirety and insert the following in its place:**

- A. If this Contract exceeds \$100,000, the Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC §1857(h)), Section 508 of the Clean Water Act (33 USC §1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

**SUPPLEMENTAL GENERAL CONDITIONS**

**FOR**

**CLEAN WATER STATE REVOLVING FUND**

**DRINKING WATER STATE REVOLVING FUND**

**(Drinking Water and Wastewater)**

**Project Name:** **WATER SYSTEM IMPROVEMENTS & REPLACEMENTS:**  
**CONTRACT 3 - LEES FORD AREA**

**Project Number:** **DWSRF F16-003 (Portion)**  
**DWSRF B20-004 (Portion)**

The attached instructions and regulations as listed below shall be incorporated into the Specifications and comprise Special Conditions.

	<u>Attachment No.</u>
<b>SRF Special Provisions</b>	<b>1</b>
<b>KRS Chapter 45A Kentucky Model Procurement Code</b>	<b>2</b>
<b>Equal Employment Opportunity (EEO) Documents:</b>	
<b>Notice of Requirement for Affirmative Action</b>	<b>3</b>
<b>Construction Contract Specifications</b>	<b>4</b>
<b>EEO Goals for Region 4 Economic Areas</b>	<b>5</b>
<b>Check List of EEO Documentation for Bidders</b>	<b>6</b>
<b>Employer Information Report EEO-1 (SF 100)</b>	<b>7</b>
<b>Labor Standards Provisions for Federally Assisted Construction</b>	<b>8</b>
<b>Certifications:</b>	
<b>Debarment, Suspension and Other Responsibility Matters</b>	<b>9</b>
<b>Anti-lobbying</b>	<b>10</b>
<b>Disadvantaged Business Enterprise (DBE) Program</b>	<b>11</b>
<b>Bonds and Insurance</b>	<b>12</b>
<b>Storm Water General Permit</b>	<b>13</b>
<b>Davis-Bacon Wage Rate Requirements</b>	<b>14</b>
<b>American Iron and Steel Requirement</b>	<b>15</b>

**SRF SPECIAL PROVISIONS**

- (a) Line crossings of all roads and streets shall be done in accordance with the Kentucky Transportation Cabinet requirements as may be set forth in the Special Conditions.
- (b) Construction is to be carried out so as to prevent by-passing of flows during construction unless a schedule has been approved by the State or EPA, whichever is applicable. Siltation and soil erosion must be minimized during construction. All construction projects with surface disturbance of more than 1 acre during the period of construction must have a KPDES Storm Water General Permit. The permit can be found at this [webpage](#).  
  
If you have any questions regarding the completion of this form call the Surface Water Permits Branch at (502) 564-3410.
- (c) Restore disturbed areas to original or better condition.
- (d) Use of Chemicals: All chemicals used during project construction or furnished for project operation, whether herbicide, pesticide, disinfectant, polymer, reactant or of other classification, must show approval of either DOW or EPA. Use of all such chemicals and disposal of residues shall be in conformance with instructions on the manufacturer's label.
- (e) The construction of the project, including the letting of contracts in connection therewith, shall conform to the applicable requirements of state, territorial, and local laws and ordinances to the extent that such requirements do not conflict with Federal laws and this subchapter.
- (f) The owner shall provide and maintain competent and adequate supervision and inspection.
- (g) The Kentucky Infrastructure Authority and Kentucky Division of Water shall have access to the site and the project work at all times.
- (h) In the event Archaeological materials (arrowheads, stone tools, stone axes, prehistoric and historic pottery, bottles, foundations, Civil War artifacts, and other types of artifacts) are uncovered during the construction of this project, work is to immediately cease at the location and the Kentucky Heritage Council shall be contacted. The telephone number is (502) 564-7005. Construction shall commence at this location until a written release is received from the Kentucky Heritage Council. Failure to report a find could result in legal action.
- (i) This procurement will be subject to DOW Procurement Guidance including the Davis-Bacon Act.
- (j) Reasonable care shall be taken during construction to avoid damage to vegetation. Ornamental shrubbery and tree branches shall be temporarily tied back, where appropriate, to minimize damage. Trees which receive damage to branches shall be trimmed of those branches to improve the appearance of the tree. Tree trunks receiving damage from equipment shall be treated with a tree dressing.
- (k) No wastewater bypassing will occur during construction unless a schedule has been approved by the Kentucky Division of Water.
- (l) Change orders to the construction contract (if required) must be negotiated pursuant to DOW/KIA Procurement Guidance for Construction and Equipment Contracts.

**KRS CHAPTER 45A**  
**KENTUCKY MODEL PROCUREMENT CODE**

**45A.075 Methods of awarding state contracts.**

Except as otherwise authorized by law, all state contracts shall be awarded by:

- (1) Competitive sealed bidding, pursuant to KRS 45A.080; or
- (2) Competitive negotiation, pursuant to KRS 45A.085 and 45A.090 or 45A.180; or
- (3) Noncompetitive negotiation, pursuant to KRS 45A.095; or
- (4) Small purchase procedures, pursuant to KRS 45A.100.

**Effective:** June 24, 2003

**History:** Amended 2003 Ky. Acts ch. 98, sec. 4, effective June 24, 2003. -- Created 1978 Ky. Acts ch. 110, sec. 16, effective January 1, 1979.

**45A.080 Competitive sealed bidding.**

(1) Contracts exceeding the amount provided by KRS 45A.100 shall be awarded by competitive sealed bidding, which may include the use of a reverse auction, unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is not practicable shall include:

- (a) Whether specifications can be prepared that permit award on the basis of best value; and
- (b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.

(2) The invitation for bids shall state that awards shall be made on the basis of best value. In any contract which is awarded under an invitation to bid which requires delivery by a specified date and imposes a penalty for late delivery, if the delivery is late, the contractor shall be given the opportunity to present evidence that the cause of the delay was beyond his control. If it is the opinion of the purchasing officer that there is sufficient justification for delayed delivery, the purchasing officer may adjust or waive any penalty that is provided for in the contract.

(3) Adequate public notice of the invitation for bids and any reverse auction shall be given a sufficient time prior to the date set forth for the opening of bids or beginning of the reverse auction. The notice may include posting on the Internet or publication in a newspaper or newspapers of general circulation in the state as determined by the secretary of the Finance and Administration Cabinet not less than seven (7) days before the date set for the opening of the bids and any reverse auction. The provisions of this subsection shall also apply to price contracts and purchase contracts of state institutions of higher education.

(4) Bids shall be opened publicly or entered through a reverse auction at the time and place designated in the invitation for bids. At the time the bids are opened, or the reverse auction has ended, the purchasing agency shall announce the agency's engineer's estimate, if applicable, and make it a part of the agency records pertaining to the letting of any contract for which bids were received. Each written or reverse auction bid, together with the name of the bidder and the agency's engineer's estimate, shall be recorded and be open to public inspection. Electronic bid opening and posting of the required information for public viewing shall satisfy the requirements of this subsection.

(5) The contract shall be awarded by written notice to the responsive and responsible bidder whose bid offers the best value.

(6) Correction or withdrawal of written or reverse auction bids shall be allowed only to the extent permitted by regulations issued by the secretary.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 63, sec. 3, effective July 15, 2010. -- Amended 2000 Ky. Acts ch. 509, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 120, sec. 10, effective July 15, 1998. -- Amended 1997 (1<sup>st</sup> Extra. Sess.) Ky. Acts ch. 4, sec. 27, effective May 30, 1997. -- Amended 1996 Ky. Acts ch. 60, sec. 2, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 278, sec. 1, effective July 15, 1994. -- Amended 1982 Ky. Acts ch. 282, sec. 1, effective July 15, 1982. -- Amended 1979 (1<sup>st</sup> Extra. Sess.) Ky. Acts ch. 9, sec. 1, effective February 10, 1979. -- Created 1978 Ky. Acts ch. 110, sec. 17, effective January 1, 1979.



#### **45A.085 Competitive negotiation.**

(1) When, under administrative regulations promulgated by the secretary or under KRS 45A.180, the purchasing officer determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in KRS 45A.095 and 45A.100, a contract may be awarded by competitive negotiation, which may include the use of a reverse auction.

(2) Adequate public notice of the request for proposals and any reverse auction shall be given in the same manner and circumstances as provided in KRS 45A.080(3).

(3) Contracts other than contracts for projects utilizing an alternative project delivery method under KRS 45A.180 may be competitively negotiated when it is determined in writing by the purchasing officer that the bids received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate.

(4) Contracts for projects utilizing an alternative project delivery method shall be processed in accordance with KRS 45A.180.

(5) The request for proposals shall indicate the relative importance of price and other evaluation factors, and any reverse auction procedures.

(6) Award shall be made to the responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the Commonwealth, taking into consideration price and the evaluation factors set forth in the request for proposals and the reciprocal preference for resident bidders required under KRS 45A.494.

(7) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(a) With respect to prices, where the prices are fixed by law, reverse auction, or administrative regulation, except that consideration shall be given to competitive terms and conditions;

(b) Where time of delivery or performance will not permit discussions; or

(c) Where it can be clearly demonstrated and documented from the existence of adequate competition or prior experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable best value procurement, and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 63, sec. 4, effective July 15, 2010; and ch. 162, sec. 8, effective July 15, 2010. -- Amended 2003 Ky. Acts ch. 98, sec. 5, effective June 24, 2003. -- Amended 1997 (1<sup>st</sup> Extra. Sess.) Ky. Acts ch. 4, sec. 28, effective May 30, 1997. -- Amended 1979 (1<sup>st</sup> Extra. Sess.) Ky. Acts ch. 9, sec. 2, effective February 10, 1979. -- Created 1978 Ky. Acts ch. 110, sec. 18, effective January 1, 1979.

#### **45A.090 Negotiation after competitive sealed bidding when all bids exceed available funds.**

(1) In the event that all bids submitted pursuant to competitive sealed bidding under KRS 45A.080 result in bid prices in excess of the funds available for the purchase, and the chief purchasing officer determines in writing:

(a) That there are no additional funds available from any source so as to permit an award to the responsive and responsible bidder whose bid offers the best value; and

(b) The best interest of the state will not permit the delay attendant to a resolicitation under revised specifications, or for revised quantities, under competitive sealed bidding as provided in KRS 45A.080, then a negotiated award may be made as set forth in subsections (2) or (3) of this section.

(2) Where there is more than one (1) bidder, competitive negotiations pursuant to KRS 45A.085(3) shall be conducted with the three (3) (two (2) if there are only two (2)) bidders determined in writing to be the most responsive and responsible bidders, based on criteria contained in the bid invitation and the reciprocal preference for resident bidders under KRS 45A.494. Such competitive negotiations shall be conducted under the following restrictions:

(a) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions; and

(b) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded upon the basis of best value.

(3) Where, after competitive sealed bidding, it is determined in writing that there is only one (1) responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with KRS 45A.095.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 162, sec. 9, effective July 15, 2010. -- Amended 2003 Ky. Acts ch. 98, sec. 6, effective June 24, 2003. -- Amended 1997 (1<sup>st</sup> Extra. Sess.) Ky. Acts ch. 4, sec. 29, effective May 30, 1997. -- Created 1978 Ky. Acts ch. 110, sec. 19, effective January 1, 1979.

#### **45A.095 Noncompetitive negotiation.**

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property;

(f) For visiting speakers, professors, expert witnesses, and performing artists;

(g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725; and

(h) For agricultural products in accordance with KRS 45A.645.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

**Effective:** July 15, 2002

**History:** Amended 2002 Ky. Acts ch. 344, sec. 9, effective July 15, 2002. -- Amended 1997 (1<sup>st</sup> Extra. Sess.) Ky. Acts ch. 4, sec. 30, effective May 30, 1997. -- Amended 1990 Ky. Acts ch. 496, sec. 4, effective July 13, 1990. -- Created 1978 Ky. Acts ch. 110, sec. 20, effective January 1, 1979

**45A.100 Small purchases by state governmental bodies.**

(1) Procurements may be made in accordance with small purchase administrative regulations promulgated by the secretary of the Finance and Administration Cabinet, pursuant to KRS Chapter 13A, as follows:

(a) Up to ten thousand dollars (\$10,000) per project for construction and one thousand dollars (\$1,000) for purchases by any state governmental body, except for those state administrative bodies specified in paragraph (b) of this subsection; and

(b) Up to forty thousand dollars (\$40,000) per project for construction or purchases by the Finance and Administration Cabinet, state institutions of higher education, and the legislative branch of government.

(2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. Reverse auctions may be used for small purchase procurements. At least every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the General Assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.

(3) The secretary of the Finance and Administration Cabinet may grant to any state agency with a justifiable need a delegation of small purchasing authority which exceeds the agency's small purchase limit provided in subsection (1) of this section. Delegations of small purchasing authority shall be granted or revoked by the secretary of the Finance and Administration Cabinet, in accordance with administrative regulations promulgated by the cabinet pursuant to KRS Chapter 13A. These administrative regulations shall establish, at a minimum, the criteria for granting and revoking delegations of small purchasing authority, including the requesting agency's past compliance with purchasing regulations, the level of training of the agency's purchasing staff, and the extent to which the agency utilizes the Kentucky Automated Purchasing System. The administrative regulations may permit the secretary of the Finance and Administration Cabinet to delegate small purchase procurements up to the maximum amount specified in subsection (1)(b) of this section.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 63, sec. 5, effective July 15, 2010. -- Amended 2002 Ky. Acts ch. 320, sec. 2, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 225, sec. 1, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 60, sec. 1, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 323, sec. 1, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 496, sec. 5, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 384, sec. 1, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 384, sec. 1, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 282, sec. 2, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 242, sec. 1, effective July 15, 1980; and ch. 250, sec. 19, effective April 9, 1980. -- Created 1978 Ky. Acts ch. 110, sec. 21, effective January 1, 1979.

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)**

The following excerpts are from 45 FR 65984 (October 3, 1980):

The minority and female goals apply to Federal and federally assisted construction contractors and subcontractors which have covered contracts. The goals are expressed as a percentage of the total hours worked by such a covered or subcontractor's entire onsite construction workforce, which is working on any construction site within a relevant area. The goal applies to each construction craft and trade in the contractor's entire workforce in the relevant area including those employees working on private non-federally involved projects.

Until further notice, the following goals for minority utilization in each construction craft and trade shall be included in all Federal or federally assisted construction contracts and subcontracts in excess of \$10,000 to be performed in the respective geographic area. The goals are applicable to each nonexempt contractor's total onsite construction workforce, regardless of whether or not part of that workforce is performing work on a Federal, federally assisted or non-federally related project, contract or subcontract.

Construction contractors which are participating in an approved Hometown Plan (see 41 CFR 60-4.5) are required to comply with the goals of the Hometown Plan with regard to construction work they perform in the area covered by the Hometown Plan. With regard to all their other covered construction work, such contractors are required to comply as follows:

- Goals for female participation in each trade.....6.9%
- Goals for minority participation in each trade.....Insert goals for each year  
(see Attachment Number 5)

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area.

The following excerpts are from 45 FR 65977 (October 3, 1980):

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

As used in this Notice, and in the contract resulting from this solicitation, the covered area is (insert description of the geographical areas where the contract is to be performed giving the state, country, and city, if any).

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)**

EEO Specifications

Following is the standard language, which must be incorporated into all solicitations for offers and bids on all Federal and Federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in designated geographical areas:

1. As used in these specifications:
  - (a) Covered Area means the geographical area described in the solicitation from which this contract resulted.
  - (b) Director means Director, Office of Federal Contract Compliance Program, United States Department of Labor, or any person to whom the Director delegates authority;
  - (c) Employer identification number means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
  - (d) Minority includes:
    - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
    - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
    - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take a good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7-a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensively as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations responses.
  - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the contractor may have taken.
  - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligation.
  - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources complied under 7-b above.

- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, lay-off, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foreman, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that EEO policy and the Contractor's obligations under these specifications are being carried out.
- n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative actions obligations (7 a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7 a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example: even though the Contractor has achieved its goal for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables for affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).



**EEO GOALS FOR ECONOMIC AREAS IN REGION 4  
SOURCE: APPENDIX B-80 IN 45 FR 65984 (OCTOBER 3, 1980)**

**Kentucky:**

053 Knoxville, TN  
 SMSA Counties:  
 3840 Knoxville, TN..... 6.6  
 TN Anderson; TN Blount; TN Knox; TN Union.  
 Non-SMSA Counties ..... 4.5  
 KY Bell; KY Harlan; KY Knox; KY Laurel; KY McCreary; KY Wayne; KY  
 Whitley; TN Campbell; TN Claiborne; TN Cocke; TN Cumberland; TN Fentress;  
 TN Grainger, TN Hamblen; TN Jefferson; TN Loudon; TN Morgan; TN Roane;  
 TN Scott; TN Sevier.

054 Nashville, TN:  
 SMSA Counties:  
 1660 Clarksville - Hopkinsville, TN - KY ..... 18.2  
 KY Christian; TN Montgomery.  
 5360 Nashville - Davidson, TN..... 15.8  
 TN Cheatham, TN Davidson; TN Dickson; TN Robertson; TN Rutherford; TN  
 Sumner; TN Williamson; TN Wilson.  
 Non-SMSA Counties ..... 12.0  
 KY Allen; KY Barren; KY Butler; KY Clinton; KY Cumberland; KY Edmonson;  
 KY Logan; KY Metcalfe; KY Monroe; KY Simpson; KY Todd; KY Trigg; KY  
 Warren; TN Bedford; TN Cannon; TN Clay; TN Coffee; TN DeKalb; TN Franklin;  
 TN Giles; TN Hickman; TN Houston; TN Humphreys; TN Jackson; TN Lawrence;  
 TN Lewis; TN Macon; TN Marshall; TN Maury; TN Moore; TN Overton; TN  
 Perry; TN Pickett; TN Putnam; TN Smith; TN Stewart; TN Trousdale; TN Van  
 Buren; TN Warren; TN Wayne; TN White.

056 Paducah, KY:  
 Non-SMSA Counties ..... 5.2  
 IL Hardin; IL Massac; IL Pope; KY Ballard; KY Caldwell; KY Calloway. KY  
 Carlisle; KY Crittenden; KY Fulton; KY Graves; KY Hickman; KY Livingston;  
 KY Lyon. KY McCracken; KY Marshall.

057 Louisville, KY:  
 SMSA Counties:  
 4520 Louisville, KY-IN ..... 11.2  
 IN Clark; IN Floyd; KY Bullitt; KY Jefferson; KY Oldham.  
 Non-SMSA Counties ..... 9.6  
 IN Crawford; IN Harrison; IN Jefferson; IN Orange; IN Scott; IN Washington; KY  
 Breckinridge; KY Grayson; KY Hardin; KY Hart; KY Henry; KY Larue; KY  
 Marion; KY Meade; KY Nelson; KY Shelby; KY Spencer; KY Trimble; KY  
 Washington.

058 Lexington, KY	
SMSA Counties	
4280 Lexington-Fayette, KY .....	10.8
KY Bourbon; KY Clark; KY Fayette; KY Jessamine; KY Scott; KY Woodford.	
Non-SMSA Counties .....	7.0
KY Adair KY Anderson; KY Bath; KY Boyle; KY Breathitt; KY Casey; KY Clay;	
KY Estill; KY Franklin; KY Garrard; KY Green; KY Harrison; KY Jackson; KY	
Knott; KY Lee; KY Leslie; KY Letcher; KY Lincoln; KY Madison; KY Magoffin;	
KY Menifee; KY Mercer; KY Montgomery; KY Morgan. KY Nicholas; KY	
Owsley; KY Perry; KY Powell; KY Pulaski; KY Rockcastle; KY Russell; KY	
Taylor; KY Wolfe.	
059 Huntington, WV:	
SMSA Counties:	
3400 Huntington - Ashland, WV-KY-OH .....	2.9
KY Boyd; KY Greenup; OH Lawrence; WV Cabell; WV Wayne.	
Non-SMSA Counties .....	2.5
KY Carter; KY Elliott; KY Floyd; KY Johnson; KY Lawrence; KY Martin; KY	
Pike; KY Rowan; OH Gallia; WV Lincoln; WV Logan; WV Mason; WV Mingo.	
067 Cincinnati, OH:	
SMSA Counties:	
1640 Cincinnati, OH-KY-IN .....	11.0
IN Dearborn; KY Boone; KY Campbell; KY Kenton; OH Clermont; OH Hamilton;	
OH Warren.	
3200 Hamilton - Middletown, OH .....	5.0
OH Butler.	
Non-SMSA Counties .....	9.2
IN Franklin; IN Ohio; IN Ripley; IN Switzerland; KY Bracken; KY Carroll; KY	
Fleming; KY Gallatin; KY Grant; KY Lewis; KY Mason; KY Owen; KY	
Pendleton; KY Robertson; OH Adams; OH Brown; OH Clinton; OH Highland.	
080 Evansville, IN:	
SMSA Counties	
2440 Evansville, IN-KY .....	4.8
IN Gibson; IN Posey; IN Vanderburgh; IN Warrick; KY Henderson.	
5990 Owensboro, KY .....	4.7
KY Daviess.	
Non-SMSA Counties .....	3.5
IL Edwards; IL Gallatin; IL Hamilton; IL Lawrence; IL Saline; IL Wabash; IL	
White; IN Dubois; IN Knox; IN Perry; IN Pike; IN Spencer; KY Hancock; KY	
Hopkins; KY McLean; KY Muhlenberg; KY Ohio; KY Union; KY Webster.	

**CHECK LIST OF EEO DOCUMENTATION FOR BIDDERS ON  
GRANT/LOAN CONSTRUCTION (EXECUTIVE ORDER 11246 AS AMENDED)**

The low, responsive responsible bidder must forward the following items, in duplicate, to the owner no later than ten (10) days after bid opening. The owner shall have one (1) copy available for inspection by the Office of Federal Contracts Compliance (OFCC) within 14 days after the bid opening. More information can be found on the [OFCC](#) webpage.

1. Project Number. Project Location. Type of Construction.
2. Proof of registration with the Joint Reporting Commission. (See Attachment Number 7.)
3. Copy of Affirmative Action Plan of contractor. Indicate company official responsible for EEO.
4. List of current construction contracts, with dollar amount. List contracting Federal Agency, if applicable.
5. Statistics concerning company percent workforce, permanent and temporary, by sex, race, trade, handicapped, and age. 40 CFR Part 7.
6. List of employment sources for project in question. If union sources are utilized, indicate percentage of minority membership within the union crafts.
7. Anticipated employment needs for this project, by sex, race and trade, with estimate of minority participation in specific trades.
8. List of subcontractors (name, address and telephone) with dollar amount and duration of subcontract. Subcontractor contracts over \$10,000 must submit items 1- 7. The following information must be provided for all supplier contracts regardless of contract size: name of company, contact person, address, telephone number, dollar value of the contract, and a list of the materials to be supplied to the prime contractor.
9. List of any subcontract work yet to be committed with estimate of dollar amount and duration of contract.
10. Contract Price. Duration of prime contract.
11. DBE Documents - See special instructions regarding use of Minority, and Women Owned, and Small Businesses.

## EMPLOYER INFORMATION REPORT EEO-1

Under the direction of the US Equal Employment Opportunity Commission, the Joint Reporting Committee is responsible for the full-length, multi-phase processing of employment statistics collected on the Employer Information Report EEO-1. This report, also termed Standard Form 100, details the sex and race/ethnic composition of an employer's work force by job category.

The Employer Information EEO-1 survey is conducted annually under the authority of Public Law 88-352, Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972. All employers with 15 or more employees are covered by Public Law 88-352 and are required to keep employment records as specified by Commission regulations. Based on the number of employees and federal contract activities, certain large employers are required to file an EEO-1 Report on an annual basis.

The EEO-1 Report must be filed by:

- (A) All private employers who are: (1) subject to Title VII of the Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972) with 100 or more employees EXCLUDING State and local governments, primary and secondary school systems, institutions of higher education, Indian tribes and tax-exempt private memberships clubs other than labor organizations; OR (2) subject to Title VII who have fewer than 100 employees if the company is owned or affiliated with another company, or there is centralized ownership, control or management (such as central control of personnel policies and labor relations) so that the group legally constitutes a single enterprise and the entire enterprise employs a total of 100 or more employees.
- (B) All federal contractors (private employers), who: (1) are not exempt as provided for by 41 CFR 60-1.5, (2) have 50 or more employees, and (a) are prime contractors or first-tier subcontractors, and have a contract, subcontract, or purchase order amounting to \$50,000 or more; or (b) serve as depository of Government funds in any amount, or (c) is a financial institution which is an issuing an paying agent for U.S. Savings Bonds and Notes.

Only those establishments located in the District of Columbia and the 50 states are required to submit the EEO-1 Report. No Reports should be filed for establishments in Puerto Rico, the Virgin Islands or other American Protectorates.

When filing for the EEO-1 Report for the first time, go to the [U.S. Equal Employment Opportunity Commission](#) webpage and select "First Time Filers". Fill out the electronic questionnaire to enter your company into Joint Reporting Committee (JRC) system. Once you have completed the registration process, you will be contacted on how to proceed with the EEO-1 Report. If you have previously registered with the JRC, follow their instructions to update your information.

**LABOR STANDARDS PROVISIONS FOR  
FEDERALLY ASSISTED CONSTRUCTION**

Labor standards provisions applicable to contracts covering federally financed and assisted construction (29 CFR 5.5, Contract Provisions and Related Matters) that apply to EPA State Revolving Fund loans are:

(a)(4)(iii) *Equal employment opportunity*. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(a)(5) *Compliance with Copeland Act requirements*. The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

(a)(6) *Subcontracts*. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5 (a)(1) through (10) and such other clauses as the U.S. Environmental Protection Agency may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(a)(7) *Contract termination: debarment*. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(b) *Contractor Work Hours and Safety Standards Act*. The Administrator, EPA, shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by §5.5(a) or §4.6 of part 4 of this title. As used in this paragraph, the terms *laborers* and *mechanics* include watchmen and guards.

(b)(1) *Overtime requirements*. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(b)(2) *Violation; liability for unpaid wages; liquidated damages*. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for unliquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) *Withholding for unpaid wages and liquidated damages*. The U.S. Environmental Protection Agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime

contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in section §5.1, the Administrator of EPA shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Administrator of EPA shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the U.S. Environmental Protection Agency and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job. (Approved by the Office of Management and Budget under OMB control numbers 1215-0140 and 1215-0017.)

## **CERTIFICATIONS**

### **Debarred Firms**

All prime Construction Contractors shall certify that Subcontractors have not and will not be awarded to any firm that is currently on the EPA Master List of Debarred, Suspended and Voluntarily Excluded Persons in accordance with the provisions of 40 CFR 32.500(c). Debarment action is taken against a firm for noncompliance with Federal Law.

All bidders shall complete the attached certification (Attachment Number 9) and submit to the owner with the bid proposal.

### **Anti-lobbying Certification**

All prime Construction Contractors must certify (Attachment Number 10) that no appropriated funds were or will be expended for the purpose of lobbying the Executive or Legislative Branches of the Federal Government or Federal Agency concerning this contract (contract in excess of \$100,000). If the Contractor has made or agreed to make payment to influence any member of Congress in regard to award of this contract, a Disclosure Form must be completed and submitted to the owner with the bid proposal.

All prime Contractors must require all Subcontractors to submit the certification, which must also be submitted to the owner.

**CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

\_\_\_\_\_  
Typed Name & Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_ I am unable to certify to the above statements. My explanation is attached.



**CERTIFICATION REGARDING LOBBYING  
CERTIFICATION FOR CONTRACTS,  
GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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Typed Name & Title of Authorized Representative

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Signature of Authorized Representative

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Date

\_\_\_\_\_ I am unable to certify to the above statements. My explanation is attached.

## EPA DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

EPA's Disadvantaged Business Enterprise Program rule applies to contract procurement actions funded in part by EPA assistance agreements awarded after May 27, 2008. The rule is found at Federal regulation Title 40, Part 33. Specific responsibilities are highlighted below.

### Loan recipient responsibilities:

- Include in each contract with a primary contractor the following term and condition:
 

“The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract.” (*Appendix A to Part 33—Term and Condition*)
- Employ the six Good Faith Efforts during prime contractor procurement (§33.301).
- Require the prime contractor to comply with the following prime contractor requirements of Title 40 Part 33:
  - To pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient (§33.302(a)).
  - To notify recipient in writing prior to any termination of a DBE subcontractor for convenience by the prime contractor (§33.302(b)).
  - To employ the six Good Faith Efforts described in §33.301 if soliciting a replacement subcontractor after a DBE subcontractor fails to complete work under the subcontract for any reason (§33.302(c)).
  - To employ the six Good Faith Efforts described in §33.301 even if the prime contractor has achieved its fair share objectives under subpart D of Part 33 (§33.302(d)).
  - To provide EPA Form 6100-2 – *DBE Program Subcontractor Participation Form* to all DBE subcontractors (§33.302(e)). **NOTE: this requirement has been suspended.**
  - To submit EPA Forms 6100-3 – *DBE Program Subcontractor Performance Form* and 6100-4 *DBE Program Subcontractor Utilization Form* as part of the bid package or proposal (§33.302(f) and (g)). **NOTE: this requirement has been suspended.**
  - To employ the six Good Faith Efforts steps in paragraphs (a) through (f) of §33.301 while procuring any subcontracts (§33.302(i)).
- Conduct an Availability Analysis and negotiate fair share objectives with EPA (§33.401), or adopt the fair share objectives of the oversight state agency revolving loan fund for comparable infrastructure (§33.405(b)(3)).
- Maintain all records documenting its compliance with the requirements of Title 40 Part 33, including documentation of its, and its prime contractors', good faith efforts (§33.501(a)).

- Create and maintain a bidders list and require the prime contractor to create and maintain a bidders list (§33.501(b)). This list must include all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs. This list must be kept until the project period for the identified loan has ended. The following information must be obtained from all prime and subcontractors:
  - (a) Entity's name with point of contact,
  - (b) Entity's mailing address, telephone number, and email address,
  - (c) The procurement on which the entity bid or quoted, and when, and,
  - (d) Entity's status as an MBE/WBE or non-MBE/WBE.

### **Prime Contractor Responsibilities:**

- Include in each contract with a subcontractor the following term and condition:
 

“The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract.” (*Appendix A to Part 33—Term and Condition*)
- Employ the six Good Faith Efforts during subcontractor procurement (§33.301).
- Pay subcontractors for satisfactory performance no more than 30 days from receipt of payment from the recipient (§33.302(a)).
- Notify recipient in writing prior to termination of a DBE subcontractor for convenience (§33.302(b)).
- Employ the six Good Faith Efforts described in §33.301 if soliciting a replacement subcontractor after a DBE subcontractor fails to complete work under the subcontract for any reason. (§33.302(c)).
- Employ the six Good Faith Efforts described in §33.301 even if the fair share objectives have been achieved under subpart D of Part 33 (§33.302(d)).
- Provide EPA Forms 6100-2 – *DBE Program Subcontractor Participation Form* and 6100-3 – *DBE Program Subcontractor Performance Form* to each DBE subcontractor prior to opening of the subcontractor's bid or proposal (§33.302(e) and (f)). **NOTE: this requirement has been suspended.**
- Complete EPA Form 6100-4 – *DBE Program Subcontractor Utilization Form* (§33.302(g)). **NOTE: this requirement has been suspended.**
- Submit to recipient with the bid package or proposal the completed EPA Form 6100-4, plus an EPA Form 6100-3 for each DBE subcontractor used in the bid or proposal (§33.302(f) and (g)). **NOTE: this requirement has been suspended.**
- Maintain all records documenting its compliance with the requirements of Title 40 Part 33, including documentation of its, and its subcontractors', good faith efforts (§33.501(a)).
- Create and maintain a bidders list and require the subcontractor to create and maintain a bidders list (§33.501(b)). This list must include all firms that bid or quote on subcontracts, including both

MBE/WBEs and non-MBE/WBEs. This list must be kept until the project period for the identified loan has ended. The following information must be obtained from all subcontractors:

- (a) Entity's name with point of contact,
- (b) Entity's mailing address, telephone number, and email address,
- (c) The procurement on which the entity bid or quoted, and when, and,
- (d) Entity's status as an MBE/WBE or non-MBE/WBE.

**Subcontractor Responsibilities:**

- May submit EPA Form 6100-2 – *DBE Program Subcontractor Participation Form* directly to DOW Project Manager (§33.302(e)). **NOTE: this requirement has been suspended.**
- Must complete EPA Form 6100-3 – *DBE Program Subcontractor Performance Form* and submit it to the prime contractor soliciting services prior to the prime contractor opening bids or quotes. **NOTE: this requirement has been suspended.**

# DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION POLICY

**PROJECT NAME:** \_\_\_\_\_ **BID DATE:** \_\_\_\_\_

**1. Name, address and telephone number of contact person on all DBE matters:**

Prime Contractor's Name: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Cell Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Total Contract Amount: \_\_\_\_\_

**2. Total dollar amount/percent of contract of MBE participation:** \_\_\_\_\_

**3. Total dollar amount/percent of contract of WBE participation:** \_\_\_\_\_

**4. Are certifications\* for each MBE/WBE/DBE subcontractor enclosed; if no, please explain:**  Yes  No \_\_\_\_\_

**5. Are MBE/WBE/DBE subcontracts or letters of intent signed by both parties enclosed; if no, please explain:**  Yes  No \_\_\_\_\_

**6. List of MBE Subcontractors:**

Name: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Cell Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Type of Contract: \_\_\_\_\_  
Work to be Done: \_\_\_\_\_  
Amount: \_\_\_\_\_

**7. List of WBE Subcontractors:**

Name: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Cell Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Type of Contract: \_\_\_\_\_  
Work to be Done: \_\_\_\_\_  
Amount: \_\_\_\_\_

Attach Additional Sheets, If Necessary

\*Self-certification: Self certification of MBE/WBE/DBE firms will NOT be accepted as a valid form of certification of MBE/WBE/DBE status.

**8. Information and documentation concerning efforts taken to comply with EPA’s “six good faith efforts”**

(i). Ensure DBE construction firms or material suppliers are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities; including placing DBEs on solicitation lists and soliciting them whenever they are potential sources. A good source for a list of DBEs is the Kentucky Transportation’s [Certified DBE Directory](#) webpage.

The prime contractor certifies that a solicitation list of qualified DBE vendors was developed for current and future solicitations. *Submit a copy of the list as documentation.*

(ii). Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process; including, whenever possible, posting solicitation for bids or proposals for a sufficient amount of time as to receive a competitive bid or proposal pool.

The prime contractor certifies that every opportunity was provided to a number of DBEs to encourage their participation in the competitive process and that an adequate amount of time was provided for response. Must do at least one of the below.

a. List each DBE construction firm or material supplier to which a solicitation was attempted. *Submit copies of letters, emails, faxes, telecommunication logs, certified mail receipts, returned envelopes, certified mail return receipts, etc. as documentation.*

Company name and phone number: \_\_\_\_\_

Area of work expertise: \_\_\_\_\_

Date of any follow-ups and person spoke to: \_\_\_\_\_

b. Advertisements, if applicable: List each publication in which an announcement or notification was placed. *Submit original advertisement or a copy of the advertisement with an affidavit of publication for each announcement as documentation.*

Name of publication: \_\_\_\_\_

Date(s) of advertisement: \_\_\_\_\_

Specific subcontract areas announced: \_\_\_\_\_

c. Other, if applicable: List each notification method in which an announcement or outreach was used; list serve, public meeting, etc. *Submit applicable information to document effort.*

Method of notification: \_\_\_\_\_

Date(s) of notification: \_\_\_\_\_

(iii). Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs; including dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

The prime contractor certifies that the project was broken into its basic elements (i.e., dirt hauling, landscaping, painting, pipe installation, material supplies, etc.) and that a determination was made whether it’s economically feasible to bid the elements separately and that the analysis of this effort was documented with a short memo to the project file.

- (iv). Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women’s business enterprises.
  - The prime contractor certifies that they established delivery schedules which would allow DBEs to participate in the project and the effort was documented with a short memo to the project file.
  
- (v). Use the services and assistance of the Small Business Administration (SBA). The easiest way to utilize their services is to visit the [SBA](#) webpage and use the electronic tools available there or you may send the nearest SBA office a certified letter that generally describes the solicitation, the dates it will be open, the types of vendors you are seeking and applicable Standard Industrial Classification (SIC) or North American Industry Classification System (NAIC) codes if known. Or, you may use the services and assistance of the Kentucky Procurement Technical Assistance Center (PTAC) **and** the Kentucky Department of Transportation (KDOT). The easiest way to utilize the services of Kentucky PTAC and KDOT is to send an email to [kyptacinfo@kstc.com](mailto:kyptacinfo@kstc.com) and [Melvin.Bynes2@ky.gov](mailto:Melvin.Bynes2@ky.gov) and generally describe the solicitation, the dates it will be open, the types of vendors you are seeking and applicable SIC or NAIC codes if known.
  - The prime contractor certifies that the assistance of the SBA or PTAC **and** KDOT was utilized. *Submit pages printed off the SBA websites which evidence efforts to register a solicitation on the site or submit copies of the letter sent and certified mail receipt as documentation; or submit copies of emails sent to PTAC and DOT as documentation.*
  
- (vi). If a Prime contractor awards any subcontracts, require the subcontractor to take the steps in numbers (i) through (v) above.
  - The prime contractor certifies that subcontractors used for this project will be required to follow the steps of the “six good faith efforts” as listed above.

**9. Signature and date:**

To the best of my knowledge and belief, all “six good faith efforts” have been met and the information contained in this document is true and correct; the document has been duly authorized by the legal representative.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Date

# BIDDER'S LIST FORM

OWNER: \_\_\_\_\_

LOAN NO: \_\_\_\_\_

PROJECT TITLE: \_\_\_\_\_

BID DATE: \_\_\_\_\_

**Instructions:**

1. Per 40 CFR §33.501(b), this list must include all firms that were solicited for participation, bid on, or quoted for a prime contract or subcontract under EPA assisted projects, includes both DBE's and non DBE's.
2. SRF loan participants must keep the Bidder's List until the project period for the identified loan has ended and no funds are remaining.
3. This list must be submitted to DOW in the ATA Package. Contract Award Approval cannot be given until this form has been received by DOW.
4. The following information must be obtained from all prime and subcontractors. Please complete the form below:

ENTITY'S NAME	MAILING ADDRESS	CONTACT PERSON	PHONE#	E-MAIL ADDRESS	M/WBE?



**BONDS AND INSURANCE**

The minimum requirements shall be as follows:

Bonding requirements for contracts of \$100,000 or less are contained in 40 CFR 31.36(h).

Bond requirements for contracts in excess of \$100,000 are:

- Bid guarantee equivalent to five percent of the bid price. The bid guarantee shall consist of a firm commitment such as a certified check or bid bond submitted with the bid;
- Performance bond equal to 100 percent of the contract price, and
- Payment bond equal to 100 percent of the contract price. Bonds must be obtained from companies holding Certificates of Authority as acceptable sureties, issued by the U.S. Treasury.

Insurance requirements are contained in the General Conditions of the contract. In addition to the other required insurance, the owner or the contractor, as appropriate, must acquire any flood insurance made available by the Federal Emergency Management Agency as required by 44 CFR Parts 59-79, if construction will take place in a flood hazard area identified by the Federal Emergency Management Agency. The owner's requirements on Flood Insurance are contained in the Special Conditions Section of the Contracts Documents.

**STORM WATER GENERAL PERMIT**

All construction projects with surface disturbance of more than 1 acre during the period of construction must have a KPDES Storm Water General Permit. The permit can be found at this [webpage](#).

If you have any questions regarding the completion of this form call the Surface Water Permits Branch, at (502) 564-3410.

## DAVIS-BACON WAGE RATE REQUIREMENTS

CWSRF: The recipient agrees to include in all agreements to provide assistance for the construction of treatment works carried out in whole or in part with such assistance made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), or with such assistance made available under section 205(m) of that Act (33 U.S.C. 1285(m)), or both, a term and condition requiring compliance with the requirements of section 513 of that Act (33 U.S.C. 1372) in all procurement contracts and sub-grants, and require that loan recipients, procurement contractors and sub-grantees include such a term and condition in subcontracts and other lower tiered transactions. All contracts and subcontracts for the construction of treatment works carried out in whole or in part with assistance made available as stated herein shall insert in full in any contract in excess of \$2,000 the contract clauses as set forth below titled “Wage Rate Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)”. This term and condition applies to all agreements to provide assistance under the authorities referenced herein, whether in the form of a loan, bond purchase, grant, or any other vehicle to provide financing for a project, where such agreements are executed on or after October 30, 2009.

DWSRF: The recipient agrees to include in all agreements to provide assistance for any construction project carried out in whole or in part with such assistance made available by a drinking water treatment revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12), a term and condition requiring compliance with the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C.300j-9(e)) in all procurement contracts and sub-grants, and require that loan recipients, procurement contractors and sub-grantees include such a term and condition in subcontracts and other lower tiered transactions. All contracts and subcontracts for any construction project carried out in whole or in part with assistance made available as stated herein shall insert in full in any contract in excess of \$2,000 the contract clauses as set forth below entitled “Wage Rate Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)”. This term and condition applies to all agreements to provide assistance under the authorities referenced herein, whether in the form of a loan, bond purchase, grant, or any other vehicle to provide financing for a project, where such agreements are executed on or after October 30, 2009.

### **Wage Rate Requirements under the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)**

#### **Preamble**

With respect to the Clean Water and Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each State which in turn provides subgrants or loans to eligible entities within the State. Typically, the subrecipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman Numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients’ compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the subrecipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients’ compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), below and for compliance as described in Section II-5.

## **I. Requirements under the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6) for Subrecipients that are Governmental Entities:**

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under the FY 2013 Continuing Resolution with respect to State recipients and subrecipients that are governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient. The recipient or subrecipient may also obtain additional guidance from [Department of Labor's](#) webpage.

### **1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.**

Under the FY 2013 Continuing Resolution, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

### **2. Obtaining Wage Determinations.**

(a) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the subrecipient shall monitor the [General Services Administration](#) website weekly to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.

(ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The subrecipient shall monitor the [General Services Administration](#) website on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from the [General Services Administration](#) website into the ordering instrument.

(c) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage

determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

### **3. Contract and Subcontract provisions.**

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2013 Continuing Resolution, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's [General Services Administration](#) website.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the [Wage and Hour Division's](#) webpage or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under §5.5(a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5(a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### (4) Apprentices and trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman’s hourly rate) specified in the contractor’s or subcontractor’s registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice’s level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for



the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

#### **4. Contract Provision for Contracts in Excess of \$100,000.**

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

## 5. Compliance Verification.

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour [District Office](#).

## II. Requirements under the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6) for Subrecipients that are not Governmental Agencies

The following terms and conditions specify how recipients will assist EPA in meeting its DB responsibilities when DB applies to EPA awards of financial assistance under the FY2013 Continuing Resolution with respect to subrecipients that are not governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient for guidance. The recipient or subrecipient may also obtain additional guidance from [DOL's](#) webpage.

**Under these terms and conditions, the subrecipient must submit its proposed DB wage determinations to the State recipient for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors.**

### 1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the FY 2013 Continuing Resolution, Davis-Bacon prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

## **2. Obtaining Wage Determinations.**

(a) Subrecipients must obtain proposed wage determinations for specific localities from the U.S. Department of Labor's [General Services Administration](#) website. After the Subrecipient obtains its proposed wage determination, it must submit the wage determination to (insert contact information for State recipient DB point of contact for wage determination) for approval prior to inserting the wage determination into a solicitation, contract or issuing task orders, work assignments or similar instruments to existing contractors (ordering instruments unless subsequently directed otherwise by the State recipient Award Official).

(b) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the subrecipient shall monitor the U.S. Department of Labor's [General Services Administration](#) website on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.

(ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The subrecipient shall monitor the U.S. Department of Labor's [General Services Administration](#) website on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(c) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from the U.S. Department of Labor's [General Services Administration](#) website into the ordering instrument.

(c) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract

or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

### **3. Contract and Subcontract provisions.**

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2013 Continuing Resolution, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3) ), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's [General Services Administration](#) website.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient(s) to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s) shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the

site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the [Wage and Hour Division's](#) webpage or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5(a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5(a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### (4) Apprentices and trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and



Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

#### **4. Contract Provision for Contracts in Excess of \$100,000.**

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act.

These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

## **5. Compliance Verification.**

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour [District Office](#) or its successor site.

## AMERICAN IRON AND STEEL REQUIREMENT

The Contractor acknowledges to and for the benefit of the \_\_\_\_\_ (“Purchaser”) and the State of Kentucky (the “State”) that it understands the goods and services under this Agreement are being funded with monies made available by the Clean Water State Revolving Fund and/or Drinking Water State Revolving Fund that have statutory requirements commonly known as “American Iron and Steel;” that requires all of the iron and steel products used in the project to be produced in the United States (“American Iron and Steel Requirement”) including iron and steel products provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Purchaser or the State.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney’s fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser).

While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

## Sample Certification

The following information is provided as a sample letter of step certification for AIS compliance. Documentation must be provided on company letterhead.

Date

Company Name  
Company Address  
City, State Zip

Subject: American Iron and Steel Step Certification for Project (XXXXXXXXXX)

I, (company representative), certify that the (melting, bending, coating, galvanizing, cutting, etc.) process for (manufacturing or fabricating) the following products and/or materials shipped or provided for the subject project is in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. XXXX
2. XXXX
3. XXXX

Such process took place at the following location:

\_\_\_\_\_

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative

"General Decision Number: KY20210058 03/05/2021

Superseded General Decision Number: KY20200058

State: Kentucky

Construction Type: Heavy

Counties: Adair, Barren, Casey, Clinton, Cumberland, Green, Hart, Knox, Laurel, Logan, Marion, McCreary, Metcalfe, Pulaski, Russell, Simpson, Taylor, Wayne and Whitley Counties in Kentucky.

HEAVY CONSTRUCTION PROJECTS (including sewer/water construction).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.95 for calendar year 2021 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.95 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2021. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/01/2021
1	03/05/2021

CARP0064-007 04/01/2020

	Rates	Fringes
CARPENTER (Form Work Only).....	\$ 29.81	19.96

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\* ELEC0369-004 09/07/2020

	Rates	Fringes
LINE CONSTRUCTION		
Equipment Operator.....	\$ 36.17	17%+7.99
Groundman.....	\$ 23.81	17%+7.61
Lineman.....	\$ 40.51	17%+8.12

-----  
ENGI0181-010 07/01/2020

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 1.....	\$ 33.95	17.25
GROUP 2.....	\$ 31.09	17.25
GROUP 4.....	\$ 30.77	17.25

OPERATING ENGINEER CLASSIFICATIONS

GROUP 1 - Crane; Drill; Grader/Blade; Mechanic; Scraper

GROUP 2 - Bobcat/Skid Steer/Skid Loader; Forklift

GROUP 4 - Oiler

Operators on cranes with booms 150 feet and over (including jib) shall receive \$1.00 above Group 1 rate; 250 feet and over including jib shall receive \$1.50 above Class 1 rate. Combination Rate: All crane operators operating cranes, where the length of the boom in combination with the length of the piling leads equal or exceeds 150 feet, shall receive \$1.00 above the Group 1 rate.

Employees assigned to work below ground level are to be paid 10% above basic wage rate. This does not apply to open cut work.

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IRON0782-010 08/01/2020

	Rates	Fringes
IRONWORKER (Reinforcing & Structural)		
Projects over \$20,000,000.00.....	\$ 30.13	25.17
Projects under \$20,000,000.00.....	\$ 28.54	23.75

-----  
LABO0189-014 07/01/2020

	Rates	Fringes
LABORER		
Concrete Saw (Hand Held/Walk Behind).....	\$ 23.51	15.62
Concrete Worker.....	\$ 23.26	15.62

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SUKY2011-014 06/25/2014

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER....	\$ 21.60	10.35
ELECTRICIAN.....	\$ 32.35	2.18
LABORER: Common or General.....	\$ 20.60	9.39
LABORER: Flagger.....	\$ 18.31	8.89
LABORER: Pipelayer.....	\$ 20.13	8.63
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 23.60	12.65
OPERATOR: Bulldozer.....	\$ 21.72	7.45
OPERATOR: Loader.....	\$ 30.35	0.00

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the



Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the

most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

## WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative

Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL DEVELOPMENT AND  
FARM SERVICE AGENCY

ORDER NO.	1
DATE	
STATE	KY
COUNTY	PULASKI

CONTRACT CHANGE ORDER

CONTRACT FOR:  
WATER SYSTEM IMPROVEMENTS & REPLACEMENTS:  
CONTRACT 3 – LEES FORD AREA

OWNER:  
WESTERN PULASKI COUNTY WATER DISTRICT

TO:  
\_\_\_\_\_  
(Contractor)

You are hereby requested to comply with the following changes in the contract plans and specifications:

Description of Changes (Supplemental Plans and Specifications Attached)	DECREASE in Contract Price	INCREASE in Contract Price
TOTALS		
NET CHANGE IN CONTRACT PRICE		

JUSTIFICATION:

The amount of the Contract will be (Decreased) (Increased) By the Sum of: \_\_\_\_\_ Dollars

The Contract Total Including this and previous Change Orders will be: \_\_\_\_\_ Dollars

The Contract Period Provided for Completion will be (Increased) (Decreased) (Unchanged) by: \_\_\_\_\_ Days

This document will become a supplement to the contract and all provisions will apply hereto.

Requested	_____ (Western Pulaski County Water District)	_____ (Date)
Recommended	_____ (Monarch Engineering, Inc.)	_____ (Date)
Accepted	_____ (Contractor)	_____ (Date)

This information will be used as a record of any changes to the original construction contract.





COMMONWEALTH OF KENTUCKY  
TRANSPORTATION CABINET  
[transportation.ky.gov](http://transportation.ky.gov)

Andy Beshear  
GOVERNOR

Jim Gray  
SECRETARY

*Adam Dixon*



**ENCROACHMENT PERMIT**

**KYTC KEPT #:** 08-2021-00301  
 \_\_\_\_\_  
**Permittee:** Western Pulaski Water District  
 \_\_\_\_\_  
**Permit Type / Subtype:** Utilities / Water  
 \_\_\_\_\_  
**Work Completion Date:** 10/31/2022  
 \_\_\_\_\_

INDEMNITIES		
Type	Amount Required	Tracking Number
Performance Bond	\$0.00	
Cash / Check	\$0.00	
Self-Insured	\$0.00	
Payment Bond	\$0.00	
Liability Insurance	\$0.00	

This permit has been: **APPROVED**  **DENIED**

Adam Dixon D8 Permits 10/5/2021  
 \_\_\_\_\_  
**SIGNATURE TITLE DATE**

The TC 99-1(B), including the application TC-99 1(A) and all related and accompanying documents and drawings make up the permit. It is not a permit unless both the TC 99-1(A) and TC 99-1(B) are both present.

LOCATION(S)			
Description	County - Route	Latitude	Longitude
	Pulaski - KY 80	37.056441	-84.675843
<del>Bore</del>	<del>Pulaski - KY 80</del>	<del>37.052997</del>	<del>-84.707363</del>
<del>Bore</del>	<del>Pulaski - KY 80</del>	<del>37.064374</del>	<del>84.674498</del>

**NOT IN THIS PROJECT**



To Submit a Locate Request  
 24 Hours a Day, Seven Days a Week:  
 Call 811 or 800-752-6007



# NOTICE OF COMPLETION OF ENCROACHMENT PERMIT WORK

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## PERMITTEE

Name: Western Pulaski Water District  
Contact Person: Joe McClendon  
Address: 2128 West Highway 80  
City: Somerset  
State: Kentucky  
Zip: 42503  
Telephone:

## PROJECT IDENTIFICATION

Permit Number: 08-2021-00301

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I wish to notify the Department of Highways that the above mentioned permit work and any necessary right-of-way restoration have been completed and are ready for final inspection.

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Permittee

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Please return this form to the address below when work is completed and ready for final inspection.

Please Return to: Permit Engineer  
Department of Highways, District 8 Office  
1660 South US 27  
Somerset, Kentucky 42502  
(606) 677-4017  
[www.transportation.ky.gov/](http://www.transportation.ky.gov/)

LOCATION(S)			
Description	County - Route	Latitude	Longitude
	Pulaski - KY 80	37.056441	-84.675843
<del>Bore</del>	<del>Pulaski - KY 80</del>	<del>37.052997</del>	<del>-84.707363</del>
<del>Bore</del>	<del>Pulaski - KY 80</del>	<del>37.064374</del>	<del>84.674498</del>

**NOT IN THIS PROJECT**

Kentucky Transportation Cabinet – District 8  
Permit No. 08-2021-00301

LEFT

Applicant to parallel underground ~~right~~ of KY 80 from mile point 14.11 to 14.64 in Pulaski County with 12 inch Ductile Iron water line as per attached plans and encroachment terms.

~~Applicant to parallel underground left of KY 80 from mile point 14.64 to 15.17 in Pulaski County with 12 inch Ductile Iron water line as per attached plans and encroachment terms.~~

**NOT IN THIS PROJECT**

~~Applicant to bore across KY 80 at mile point 12.11 and 14.64 in Pulaski County for a 12 inch Ductile Iron water line as shown on attached plans, encroachment terms, and Typical Highway Boring Detail.~~

Locations where utility line crosses paved or concrete driveways, the utility line shall be bored to prevent disturbance to the driving surface unless prior written approval is obtained from the property owners.

Underground utility crossing shall be constructed with 42 inches of cover from the top of the pipe to the low spot of the ditch or toe of slope as shown on the attached Typical Highway Boring Crossing Detail.

Parallel utility lines shall be constructed between back of slope of ditch line or toe of slope and the right of way line and shall have a minimum of 42 inches cover above the top of pipe or conduit.

Roadway drainage shall be maintained at all times, with silt checks placed in the roadway ditch where needed and near the inlet of all culvert and entrance pipe to control erosion and prevent silt from settling inside of pipe.

No change shall be made contrary to this permit and the applicant's plans without first notifying and being approved by the Permit Engineer.

Construction of the utility shall not interfere with any construction or maintenance operations of the Kentucky Transportation Cabinet on KY 80.

All work and materials shall meet or exceed the Kentucky Department of Highways Standard Specifications.

All disturbed portions of the right-of-way are to be restored to grass as per Kentucky Department of Highways Standard Specifications for Road and Bridge Construction, 2019 edition. A satisfactory turf, as determined by the Department, is to be established by the permittee prior to release of indemnity.

The minimum rate of application for seeding and protection method II per 1,000 square feet shall be applied as follows:

2.5 lbs of seed mixture  
12 lbs of 20-10-10 fertilizer  
150 lbs of agricultural limestone

Work area within the Kentucky Department of Highways right of way shall be signed and flagged in accordance to the Manual on Uniform Traffic Control Devices before any work is to begin on the Kentucky Department of Highways right of way.

Contractor's equipment or other vehicles shall not be permitted to park on the roadway shoulders during the construction of this project without compliant traffic control.

This permit will be terminated and work will stop immediately at anytime the Department of Highways discovers or is notified of any unsafe or hazardous condition until corrections have been made.



**APPLICATION FOR ENCROACHMENT PERMIT**

KYTC KEPT #: 08-2021-00301

**SECTION 1: APPLICANT CONTACT INFORMATION**

<b>APPLICANT</b> WESTERN PULASKI CO. WATER DISTRICT	<b>ADDRESS</b> 2128 W. HIGHWAY 80		
<b>EMAIL</b> tamora.vaught@gmail.com	<b>CITY</b> SOMERSET	<b>STATE</b> KENTUCKY	<b>ZIP</b> 42503
<b>CONTACT NAME 1</b> JOE McCLENDON	<b>EMAIL</b> joe-mcclendon@hotmail.com	<b>PHONE #</b> 606-679-1569	
		<b>CELL #</b> 606-271-6256	
<b>CONTACT NAME 2 (if applicable)</b> TAMMY VAUGHT	<b>EMAIL</b> tamora.vaught@gmail.com	<b>PHONE #</b> 606-679-1569	
		<b>CELL #</b>	

**SECTION 2: PROPOSED WORK LOCATION**

<b>ADDRESS</b> KENTUCKY HIGHWAY 80	<b>CITY</b> SOMERSET	<b>STATE</b> Kentucky	<b>ZIP</b> 42503
<b>COUNTY</b> PULASKI	<b>ROUTE #</b> 80	<b>MILE POINT</b> 14.14 to 15.17	<b>LONGITUDE (X)</b> 84° 40' 21.68" W
			<b>LATITUDE (Y)</b> 37° 03' 21.70" N

**ADDITIONAL LOCATION INFORMATION:**

**FOR KYTC USE ONLY**

**PERMIT TYPE:**  Air Right  Entrance  Utilities  Vegetation Removal  Other

**ACCESS:**  Full  Partial  by Permit **LOCATION:**  Left  Right  Crossing

**SECTION 3: GENERAL DESCRIPTION OF WORK**

- 1) ~~M.P. 12.11, X-ing: Install 50 LF of bore & case for 3" PVC water line under KY 80. Encasement pipe shall be 8" diameter steel.~~
- 2) M.P. 14.14 to 14.64: Install 12" Ductile Iron water line on the left hand side of KY 80 for approximately 3,400 LF along ROW as shown on the Plan Sheets.
- 3) ~~M.P. 14.64, X-ing: Install 50 LF of bore & case for 12" Ductile Iron water line under KY 80. Encasement pipe shall be 20" diameter steel.~~
- 4) ~~M.P. 14.64 to 15.17: Install 12" Ductile Iron water line on the right hand side of KY 80 for approximately 2,800 LF along ROW as shown on the Plan Sheets.~~

SEE ATTACHMENTS <sup>A D</sup>

THE UNDERSIGNED APPLICANT(s), being duly authorized representative(s) or owner(s), DO AGREE TO ALL ORIGINAL UNEDITED TERMS AND CONDITIONS ON THE TC 99-1A, pages 1-4.

*Ron Collier*  
 SIGNATURE

7/7/21  
 DATE

This is not a permit unless and until the applicant(s) receives an approved TC 99-1B from KYTC. This application shall become void if not approved by the cancellation date. The cancellation date shall be a minimum of one year from the date the applicant submits their application.



## APPLICATION FOR ENCROACHMENT PERMIT

### TERMS AND CONDITIONS

1. The permit, including this application and all related and accompanying documents and drawings making up the permit, remains in effect and is binding upon the Applicant/Permittee, its successors and assigns, as long as the encroachment(s) exists and also until the permittee is finally relieved by the Department of Highways from all its obligations.
2. Applicant shall meet all requirements of the Clean Water Act if the project will disturb one acre or more, the applicant shall obtain a KPDES KYR10 Permit from the Kentucky Division of Water. All disturbed areas shall meet the requirements of the Department of Highway's Standard Specifications, Sections 212 and 213, as amended.
3. **INDEMNITY:**
  - A. **PERFORMANCE BOND:** The permittee shall provide to the Department a performance bond according to the Permits Manual, Section PE-203 as a guarantee of conformance with the Department's Encroachment Permit requirements.
  - B. **PAYMENT BOND:** At the discretion of the department, a payment bond shall be required of the permittee to ensure payment of liquidated damages assessed to the permittee.
  - C. **LIABILITY INSURANCE:** Liability insurance shall be required of the permittee (in an amount approved by the department) to cover all liabilities associated with the encroachment.
  - D. It shall be the responsibility of the permittee, its successors and assigns, to maintain all indemnities in full force and effect until the permittee is authorized to release the indemnity by the Department.
4. A copy of this application and all related documents making up the approved permit shall be given to the applicant and shall be made readily available for review at the work site at all times.
5. Perpetual maintenance of the encroachment is the responsibility of the permittee, its successors and assigns, with the approval of the Department as required, unless otherwise stated.
6. Permittee, its successors and assigns, shall comply with and agree to be bound by the requirements and terms of (a) this application and all related documents making up the approved permit, (b) by the Department's Permits Manual, and (c) by the Manual on Uniform Traffic Control Devices, both manuals as revised to and in effect on the date of issuance of the permit, all of which documents are made a part thereof by this reference. Compliance by the permittee, its successors and assigns, with subsequent revisions to applicable provisions of either manual or other policy of the Department may be made a condition of allowing the encroachment to persist under the permit.
7. Permittee agrees that this and any encroachment may be ordered removed by the Department at any time, and for any reason, upon thirty days written notice to the last known address of the applicant or to the address at the location of the encroachment. The permittee agrees that the cost of removing and of restoring the associated right-of-way is the responsibility of the permittee, its successors and assigns.
8. Permittee, its successors and assigns, agree that if the Department determines that motor vehicular safety deficiencies develop as a result of the installation or use of the encroachment, the permittee, its successors and assigns, shall provide and bear the expenses to adjust, relocate, or reconstruct the facilities, add signs, auxiliary lanes, or other corrective measures reasonably deemed necessary by the Department within a reasonable time after receipt of a written notice of such deficiency. The period within which such adjustments, relocations, additions, modifications, or other corrective measures must be completed will be specified in the notice.
9. Where traffic signals are required as a condition of granting the requested permit or are thereafter required to correct motor vehicular safety deficiencies, as determined by the Department, the costs for signal equipment and installation(s) shall be borne by the permittee, its successors and assigns and the Department in its reasonable discretion and only in accordance with the Department's current policy set forth in the Traffic Operations Manual and Permits Manual. Any modifications to the permittee's entrance necessary to accommodate signalization (including necessary easement(s) on private property) shall be the responsibility of the permittee, its successors and assigns, at no expense to the Department.



### APPLICATION FOR ENCROACHMENT PERMIT

10. The requested encroachment shall not infringe on the frontage rights of an abutting owner without their written consent as hereinafter described. Each abutting owner shall express their consent, which shall be binding on their successors and assigns, by the submission of a notarized statement as follows, "I (we), \_\_\_\_\_, hereby consent to the granting of the permit requested by the applicant along Route \_\_\_\_\_, which permit does affect frontage rights along my (our) adjacent real property." By signature(s) \_\_\_\_\_, subscribed and sworn by \_\_\_\_\_, on this date \_\_\_\_\_.
11. The permit, if approved, is subject to the agreement that it shall not interfere with any similar rights or permit(s) previously granted to any other party, except as otherwise provided by law.
12. Permittee shall include documentation which describes the facilities to be constructed. Permittee, its successors and assigns, agree as a condition of the granting of the permit to construct and maintain any and all permitted facilities or other encroachments in strict accordance with the submitted and approved permit documentation and the policies and procedures of the Department. Permittee, its successors and assigns, shall not use facilities authorized herein in any manner contrary to that prescribed by the approved permit. Only normal usage as contemplated by the parties and by this application and routine maintenance are authorized by the permit.
13. Permittee, its successors and assigns, at all times from the date permitted work is commenced until such time as all permitted facilities or other encroachments are removed from the right-of-way and the right-of-way restored, shall defend, protect, indemnify and save harmless the Department from any and all liability claims and demands arising out of the work, encroachment, maintenance, or other undertaking by the permittee, its successors and assigns, related or undertaken pursuant to the granted permit, due to any claimed act or omission by the permittee, its servants, agents, employees, or contractors. This provision shall not inure to the benefit of any third party nor operate to enlarge any liability of the Department beyond that existing at common law or otherwise if this right to indemnity did not exist.
14. Upon a violation of any provision of the permit, or otherwise in its reasonable discretion, the Department may require additional action by the permittee, its successors and assigns, up to and including the removal of the encroachment and restoration of the right-of-way. In the event additional actions required by the Department under the permit are not undertaken as ordered and within a reasonable time, the Department may in its discretion cause those or other additional corrective actions to be undertaken and the Department shall recover the reasonable costs of those corrective actions from the permittee, its successors and assigns.
15. Permittee, its successors and assigns, shall use the encroachment premises in compliance with all requirements of federal law and regulation, including those imposed pursuant to Title VI of the Civil Right Act of 1964 (42 U.S.C. § 2000d et seq.) and the related regulations of the U.S. Department of Transportation in Title 49 C.F.R. Part 21, all as amended.
16. Permittee, its successors and assigns, agree that if the Department determines it is necessary for the facilities or other encroachment authorized by the permit to be removed, relocated or reconstructed in connection with the reconstruction, relocation or improvement of a highway, the Department may revoke permission for the encroachment to remain under the permit and may order its removal, relocation or reconstruction by the permittee, its successors and assigns, at the expense of the permittee, except where the Department is required by law to pay any or all of those costs.



**APPLICATION FOR ENCROACHMENT PERMIT**

- 17. Permittee agrees that the authorized permit is personal to the permittee and shall remain in effect until such time as (a) the permittee's rights to the adjoining real property to have benefitted from the requested encroachment have been relinquished, (b) until all permit obligations have been assumed by appropriate successors and assigns, and (c) unless and until a written release from permit obligations has been granted by the Department. The permit and its requirements shall also bind the real property to have benefitted from the requested encroachment to the extent permitted by law. The permit and the related encroachment become the responsibility of the successors and assigns of the permittee and the successors and assigns of each property owner benefitting from the encroachment, or the encroachment may not otherwise permissibly continue to be maintained on the right-of-way. (Does not apply to utility encroachments serving the general public.)
- 18. If work authorized by the permit is within a highway construction project in the construction phase, it shall be the responsibility of the permittee to make personal contact with the Department's Engineer on the project in order to coordinate all permitted work with the Department's prime contractor on the project.
- 19. This permit is not intended to, nor shall it, affect, alter or alleviate any requirement imposed upon the permittee, its successors and assigns, by any other agency.
- 20. Permittee, its successors and assigns, agree to contain and maintain all dirt, mud, and other debris emanating from the encroachment away from the surrounding right-of-way and the travel way of the highway hereafter and at all times that its obligations under the permit remain in effect.
- 21. Before You Dig: The contractor is instructed to call 1-800-752-6007 to reach KY 811, the One-Call system for information on the location of existing underground utilities. The call is to be placed a minimum of two (2) and no more than ten (10) business days prior to excavation. The contractor should be aware that the owners of underground facilities are not required to be members of the KY 811 One-Call Before U-Dig (BUD) service. The contractor must coordinate excavation with the utility owners, including those whom do not subscribe to KY 811. It may be necessary for the contractor to contact the County Clerk to determine what utility companies have facilities in the area.
- 22. The undersigned Utility acknowledges ownership and control of the facilities proposed to be installed, modified, or extended by the Applicant/Permittee and agrees to be bound by the requirements and terms of this application and all related documents making up the approved permit, by the Department's Permits Guidance Manual, and by all applicable regulations and statutes in effect on the date of issuance of the permit. This information and application is certified correct to the best knowledge and belief of the undersigned Utility.

**WESTERN PULASKI COUNTY WATER DISTRICT**

**UTILITY**

**DON CALDER**

NAME (Utility Representative)

*Don Calder*  
SIGNATURE (Utility Representative)

**CHAIRMAN**

TITLE (Utility Representative)

7/7/21  
DATE



Know what's below. Call before you dig.

To Submit a Locate Request  
24 Hours a Day, Seven Days a Week:  
Call 811 or 800-752-6007



## ENCROACHMENT PERMIT GENERAL NOTES & SPECIFICATIONS

Permit No. \_\_\_\_\_

### I. SAFETY

#### A. General Provisions

- All signs and control of traffic shall be in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways, latest edition, Part VI, and safety requirements shall comply with the Permits Manual.
- All work necessary in shoulder or ditch line areas of a state highway shall be scheduled to be promptly completed so that hazards adjacent to the traveled way are kept to an absolute minimum.
- No more than one (1) traveled-lane shall be blocked or obstructed during normal working hours. All signs and flaggers during lane closure shall conform to the Manual on Uniform Traffic Control Devices.
- When necessary to block one (1) traveled-lane of a state highway, the normal working hours shall be as directed by the Department. No lanes shall be blocked or obstructed during adverse weather conditions (rain, snow, fog, etc.) without specific permission from the Department. Working hours shall be between 8:30 AM and 4:00 PM
- The traveled-way and shoulders shall be kept clear of mud and other construction debris at all times during construction of the permitted facility.
- No nonconstruction equipment or vehicles or office trailers shall be allowed on the right of way during working hours.
- The right of way shall be left free and clear of equipment, material, and vehicles during non-working hours.

#### B. Explosives

- No explosive devices or explosive material shall be used within state right of way without proper license and approval of the Kentucky Department of Mines and Minerals, Explosive Division.

#### C. Other Safety Requirements

- All workers must wear OSHA conforming personal protection items at all times when work is performed on the KYTC right of way. All traffic control must conform to the latest edition of the Manual on Uniform Traffic Control Devices

### II. UTILITIES \* Applies to Fully Controlled Access Highways **ONLY**

- \*All work necessary within the right of way shall be performed behind a temporary fence erected prior to a boring operation.
- \*The temporary woven wire fence shall be removed immediately upon completion of work on the right of way, and the control of access immediately restored to original condition, in accordance with applicable Kentucky Department of Highways Standard Drawings.
- \*All vents, valves, manholes, etc., shall be located outside of the right-of-way.
- \*Encasement pipe shall extend from right-of-way line to right-of-way line and shall be one continuous run of pipe. The encasement pipe shall be welded at all joints.
- The boring pit and tail ditch shall extend past the existing toe of slope or bottom of ditch line and shall be a minimum of 42 inches deep.



**II. UTILITIES (Continued)**

- Encasement pipe shall conform to current standards for highway crossings in accordance with the Permits Manual.
- Parallel lines shall be constructed between back slope of ditch line and right-of-way line and shall have a minimum of 42-inch cover above top of pipe or conduit.
- All pavement cuts shall be restored per attached encroachment terms.
- Aerial crossing of this utility line shall have a minimum clearance of \_\_\_\_\_ feet from the high point of the roadway to the low point of the line (calculated at the coefficient for expansion of 120 degrees Fahrenheit).
- The 30-foot clear zone requirement shall be met to the extent possible in accordance with the Permits Manual.
- Special requirements:

**III. GENERAL**

**A. OSHA**

- Kentucky Occupational Safety and Health Standards for the construction industry, which has the effect of law, states in part: (Page 52, 1926.651, Specific Excavation Requirements) "Prior to opening an excavation, effort shall be made to determine whether underground installations, (sewer, telephone, water, fuel, electric lines, etc.) will be encountered, and if so, where such underground installations are located. When the excavation approaches the estimated location of such an installation, the exact location shall be determined, and when it is uncovered, proper supports shall be provided for the existing installation. Utility companies shall be contacted and advised of proposed work prior to the start of actual excavation."

**B. Archaeological**

- Whenever materials of an archaeological nature are discovered during the course of construction work or maintenance operations, contact shall be made immediately with the Division of Environmental Analysis, which maintains an archaeologist on staff, or with the Office of the State Archaeologist located at the University of Kentucky. Following this consultation, further action shall be decided on a case-by-case basis by the State Highway Engineer or the Transportation Planning Engineer or their designated representative.

**C. Utilities in the Work Areas**

- The permittee shall be responsible for any damage to existing utilities, and any utility modifications or relocations within state right of way necessary, as determined by the Department or by the owner of the utility, shall be at the expense of the permittee and subject to the approval of the Department.
- All existing manholes and valve boxes shall be adjusted to be flush with finished grade.

**D. Environmental**

- If the activity to which this permit relates disturbs one acre or more of land, you must obtain a KPDES KYR10 permit.

Websites

<http://www.water.ky.gov/permitting/wastewaterpermitting/KPDES/storm/>

Inspectors for KPDES KYR10 at [www.KEPSC.org](http://www.KEPSC.org)

**IV. RIGHT OF WAY RESTORATION**

All disturbed portions of the right of way shall be restored to grass as per Kentucky Department of Highways Standard Specifications for Road and Bridge Construction (latest edition). A satisfactory turf, as determined by the Department, shall be established by the permittee prior to release of indemnity. Sodding or seeding shall be as follows:

Slopes 3:1 or flatter  
90% Kentucky 31 Tall Fescue  
10% White Dutch Clover

Slopes steeper than 3:1  
70% KY 31 Fescue  
30% Partridge Pea

Two tons of clean straw mulch per acre of seeding.

Prior to seeding, the ground shall be prepared in accordance with Kentucky Department of Highways Standard Specifications for Road and Bridge Construction (latest edition).

Substitutes for sod such as artificial turf, rocked mulch, or paved areas may be acceptable if they are aesthetically pleasing.

All ditch-flow lines and all ditch-side slopes shall be sodded.

Existing concrete right of way markers shall not be disturbed, but if damaged in any way, they shall be entirely replaced by the permittee, with new concrete markers to match the original markers, in accordance with Kentucky Department of Highways Standard Drawings. Markers that are entirely removed shall be re-established in the proper locations by the permittee and to the satisfaction of the Department.

Other right of way restoration requirements are as follows:

**V. DRAINAGE**

All pipe shall be laid in a straight alignment, to proper grades, and with all materials and methods of installation including bedding and joint seating in accordance with Department Standard Specifications for Road and Bridge Construction (latest edition). Pipe shall not be covered until inspected by the Department and express permission obtained to make backfill.

All gutter lines at the base of new curbs shall be on continuous grades, and pockets of water along with curbs or in entrance areas or other paved areas within the right of way shall not be acceptable.

All drainage structures and appurtenances (manholes, catch basins, curbing, inlet basins, etc.) shall conform to Department specifications and shall be constructed in accordance with the Department Standard Drawings. Type required:

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**VI. Paving**

- No bituminous pavement shall be installed within the right of way between November 15 and April 1, nor when the temperature is below 40 degrees Farenheit, without the express consent of the Department. No bituminous pavement shall be installed when the underlying course is wet.
  
- Paving within the right of way shall be as follows:
  - Base (Type) \_\_\_\_\_ (Thickness) \_\_\_\_\_
  - Surface Base (Type) \_\_\_\_\_ (Thickness) \_\_\_\_\_
  - Finished Surface (Type) \_\_\_\_\_ (Thickness) \_\_\_\_\_
  
- Existing pavement and shoulder material shall be removed to accomodate the above paving specifications.
  
- The finished surface of all new pavement within the right of way shall be true to the required slope and grade, uniform in density and texture, free of irregularities, and equivalent in riding qualities to the adjacent highway pavement or as determined by the Department of Highways.
  
- All materials and methods of construction, including base and subgrade preparation, shall be in accordance with Kentucky Department of Highways Standard Specifications for Road and Bridge Construction (latest edition).
  
- 48 hours notice to the Department is required prior to beginning paving operations.  
 Phone: \_\_\_\_\_ Name: \_\_\_\_\_
  
- To ensure proper surface drainage, the new pavement shall be flush with the edge of existing highway pavement and shall slope away from the existing edge of the pavement as specified in drawings.
  
- Existing edge of pavement shall be saw-cut to provide a straight and uniform joint for new pavement. An approved joint sealer, in accordance with Kentucky Department of Highways Standard Specifications (latest edition), shall be applied between new and existing pavements.

**VII. SIDEWALKS SPECIFICATIONS** \*This dimension should be equal to the width of the sidewalk.

**A. New Sidewalks**

- Sidewalks shall be constructed of Class A concrete (3,500 p.s.i. test), shall be \* \_\_\_\_\_ feet in width, 8 inches in thickness across the entrances, and 4 inches in thickness across the remaining sections.
  
- Sidewalks shall have tooled joints not less than 1 inch in depth at four foot intervals\*, and 1/2 premolded expansion joints extending entirely through the sidewalk at intervals not to exceed 50 feet.
  
- All materials and methods of construction, including curing, shall be in accordance with the Kentucky Department of Highways Standard Specifications for Road and Bridge Construction (latest edition).

**B. Existing Sidewalks**

- (Applicable if existing sidewalks are being relocated)** Use of the sidewalk shall not be blocked or obstructed, and a usable walkway shall be maintained across the construction area at all times.
  
- All damaged sections of the sidewalks shall be entirely replaced to match existing sections.

**VIII. DENSE GRADED SHOULDERS**

- Any existing dense-graded aggregate shoulders in the entire frontage within the construction area, which have been disturbed or damaged or on which dirt has been placed or mud has been deposited or tracked, shall be restored to original condition by removal of all contaminated material and replaced to proper grade with new dense-graded aggregate.
- All new aggregate shoulders as specified in the plan shall consist of 5 inches of compacted dense-graded aggregate, 2<sup>1/2</sup> pounds per square yard of calcium chloride.
- All dense-graded aggregate shoulders shall slope away from the new edge of pavement at the rate of 3/4 inch per foot.

**IX. CURBING****A. Bituminous Curbs**

- Bituminous concrete curbs shall be given a paint coat of asphalt emulsion.
- The surface under the bituminous concrete curb shall be tacked with asphalt emulsion.
- All bituminous concrete curbs shall be constructed of a Class I bituminous concrete mixture as specified by official Department of Highways specifications.
- All bituminous curbs shall be rolled curb, with a minimum base width of 8 inches and a minimum height of \_\_\_\_\_ inches. The top of the curb shall be constructed in such a manner as to guarantee a uniform rolled effect throughout the entire run.

**B. Concrete Curbs**

- All curbs or curb and gutter shall be constructed of Class A concrete (3,500 p.s.i. test) and shall be uniform in height, width, and alignment, true to grade, and satisfactory in finish and appearance as determined by the Department. All materials and methods of construction, including curing, shall be in accordance with Department of Highways Standard Specifications for Road and Bridge Construction (latest edition).
- All concrete curbs shall be 6 inches in width, extend \_\_\_\_\_ inches above finished grade and 12 inches below finished grade, with all visible edge rounded to 1/2 inch radii.
- All concrete curbs shall have expansion joints constructed at intervals of not more than 30 feet, and 1/2 inch premolded expansion joint material (cut to conform to the curb or to the curb and gutter section) shall be used in each expansion joint.
- The last \_\_\_\_\_ feet of all concrete curbs are to be tapered down to finished grade.

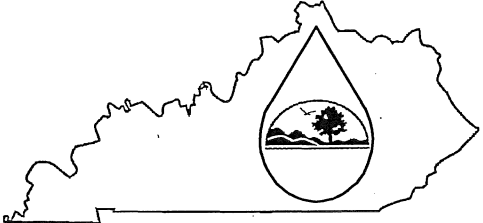
**X. RIGHT-OF-WAY FENCE REPLACEMENT**

- The replacement fence shall be a height of at least 48 inches and shall be of sufficient density to contain all animals (if applicable).
  
- The replacement fence shall be a minimum of 1 foot outside the right-of-way line. The fence materials and
- design shall meet accepted industry standards and be treated as paintable.
- The permittee shall be required to maintain the fence in a high state of repair.
- The existing fence shall be removed by permittee and stored at the Department's maintenance storage yard for future reuse by the Department.
- The control of access shall not be diminished as a result of replacement of the fence.
- Miscellaneous:

**NOTICE TO PERMITTEE**

THE PERMITTEE AGREES THAT ALL WORK WITHIN THE EXISTING RIGHT OF WAY SHALL BE DONE IN ACCORDANCE WITH THE PLANS AS APPROVED AND PERMITTED BY AN ENCROACHMENT PERMIT. ANY CHANGES OR VARIANCES MADE AT THE TIME OF CONSTRUCTION WITHOUT WRITTEN APPROVAL FROM THE DEPARTMENT OF HIGHWAYS SHALL BE REMOVED BY THE PERMITTEE AT NO EXPENSE TO THE DEPARTMENT OF HIGHWAYS AND SHALL BE REDONE BY THE PERMITTEE TO CONFORM WITH THE APPROVED PLANS.

# FORM NOI-SWCA

	<p><b>KENTUCKY POLLUTION DISCHARGE ELIMINATION SYSTEM (KPDES)</b></p> <p><b>Notice of Intent (NOI) for coverage of Storm Water Discharges Associated with Construction Activities Under the KPDES Storm Water General Permit KYR100000</b></p>
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This is an application for:

New construction activity.  
 Modification of coverage for additional area in same watershed.  
 Modification of coverage for additional area in different watershed.

If Modification is checked, state reason for Modification:

For Agency Use	Permit No. (Leave Blank)	K	Y	R	1	0				
For Agency Use	AI ID (Leave Blank)									

**SECTION I – FACILITY OPERATOR INFORMATION**

Operator Name(s)*:	Phone*:
Mailing Address*:	Status of Owner/Operator: <input type="checkbox"/> Private <input type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> Public (other than state or federal)
City*:	State*      Zip Code*:

**SECTION II – FACILITY/SITE LOCATION INFORMATION**

Name of Project*:	Physical Address*:	City*:
State*:	Zip Code*:	County*:
Latitude (decimal degrees)*:	Longitude (decimal degrees)*:	SIC Code*:

**SECTION III – SITE ACTIVITY INFORMATION**

For single projects provide the following information

Total Number of acres in project*:	Total Number of acres to be disturbed*:	Start date:	Completion date:
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For common plans of development projects provide the following information

Total Number of acres in project*:	Number of individual lots in development:	Number of lots to be developed:
Total acreage intended to be disturbed*:		Number of acres intended to be disturbed at any one time:
Start date:	Completion date:	List Contractors:

**SECTION IV – DISCHARGE TO A WATER BODY**

Name of Receiving Water*:	Anticipated number of discharge points:
Location of anticipated discharge points:      Latitude (decimal degrees)*      Longitude (decimal degrees)*:	
Receiving Water Body Stream Use Designation	<input type="checkbox"/> Cold Water Aquatic Habitat <input type="checkbox"/> Domestic Water Supply <input type="checkbox"/> Outstanding State Resource Water <input type="checkbox"/> Secondary Contact Recreation <input type="checkbox"/> Primary Contact Recreation <input type="checkbox"/> Warm Water Aquatic Habitat
Antidegradation Categorization	<input type="checkbox"/> Outstanding National Resource Water <input type="checkbox"/> Exceptional Water <input type="checkbox"/> High Quality Water <input type="checkbox"/> Impaired Water
Name of Receiving Water*:	Anticipated number of discharge points:
Location of anticipated discharge points:      Latitude (decimal degrees)*      Longitude (decimal degrees)*:	
Receiving Water Body Stream Use Designation	<input type="checkbox"/> Cold Water Aquatic Habitat <input type="checkbox"/> Domestic Water Supply <input type="checkbox"/> Outstanding State Resource Water <input type="checkbox"/> Secondary Contact Recreation <input type="checkbox"/> Primary Contact Recreation <input type="checkbox"/> Warm Water Aquatic Habitat
Antidegradation Categorization	<input type="checkbox"/> Outstanding National Resource Water <input type="checkbox"/> Exceptional Water <input type="checkbox"/> High Quality Water <input type="checkbox"/> Impaired Water

# FORM NOI-SWCA

<b>SECTION V – DISCHARGE TO AN MS4</b>			
Name of MS4:		Date of application /notification to the MS4 for construction site coverage:	
Number of discharge points:	Location of each discharge point: Latitude (decimal degrees):*		Longitude (decimal degrees):*
<b>SECTION VI – CONSTRUCTION ACTIVITIES IN OR ALONG A WATER BODY</b>			
Will the project require construction activities in a water body or the riparian zone: <input type="checkbox"/> Yes <input type="checkbox"/> No			
If yes, describe scope of activity:			
Is a Clean Water Act 404 permit required: <input type="checkbox"/> Yes <input type="checkbox"/> No		Is a Clean Water Act 401 Water Quality Certification required: <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>SECTION VII – NOI PREPARER INFORMATION</b>			
First Name:*	Last Name:*	Phone :*	eMail Address:*
Mailing Address:*	City:*	State:*	Zip Code:*
<b>SECTION VIII – ATTACHMENTS</b>			
Attach a full size color USGS 7½-minute quadrangle map with the facility site clearly marked. USGS maps may be obtained from the University of Kentucky, Mines and Minerals Bldg. Room 106, Lexington, Kentucky 40506. Phone number (859) 257-3896.			
<b>SECTION IX – CERTIFICATION</b>			
I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.			
Signature:*		First Name:*	Last Name:*
Phone:*	eMail Address:		Date:*

This completed application form and attachments should be sent to: SWP Branch, Division of Water, 200 Fair Oaks, Frankfort, Kentucky 40601. Questions should be directed to: SWP Branch, Operational Permits Section at (502) 564-3410.

## KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM FORM NOI-SWCA – INSTRUCTIONS

### WHO MUST FILE A NOTICE OF INTENT (NOI) FORM

Federal law at 40 CFR Part 122 prohibits point source discharges of stormwater associated with industrial activity to a water body of the Commonwealth of Kentucky without a Kentucky Pollutant Discharge Elimination System (KPDES) permit. The operator of an industrial activity that has such a storm water discharge must submit a NOI to obtain coverage under the KPDES Storm Water General Permit. If you have questions about whether you need a permit under the KPDES Storm Water program, or if you need information as to whether a particular program is administered by the state agency, call the **Storm Water Contact, Operational Permits Section, Kentucky Division of Water at (502) 564-3410.**

### WHERE TO FILE NOI FORM

NOIs must be sent to the following address or submitted in on-line at <https://dep.gateway.ky.gov/eForms/Default.aspx?FormID=3>:

Operational Permits Section  
SWP Branch, Division of Water  
200 Fair Oaks Lane  
Frankfort, KY 40601

Electronic NOI-SWCAs are to be submitted a minimum of seven (7) working days prior to commencement of construction related activities. Paper NOI-SWCAs are to be submitted a minimum of thirty (30) working days prior to commencement of construction related activities.

### COMPLETING THE FORM

Enter information in the appropriate areas only. (\*) denotes a required field. Enter N/A (Not Applicable) for fields that are required but do not apply to your submission. If you have any questions regarding the completion of this form call the **Storm Water Contact, Operational Permits Section, at (502) 564-3410.**

#### SECTION I – FACILITY OPERATOR INFORMATION

**Operator Name(s):** Enter the name or names of all operators applying for coverage under KYR10 using this NOI.  
**Mailing Address, City, State, and Zip Code:** Provide the mailing address of the primary operator  
**Phone No.:** Provide the telephone numbers of the person who is responsible for the operation.  
**Status of Owner/Operator:** Select the appropriate legal status of the operator of the facility from the dropdown list.

Federal  
Public (other than federal or state)  
State  
Private

#### SECTION II – FACILITY/SITE LOCATION INFORMATION

**Name of Project:** Provide the name of the project.  
**Physical Address, City, State, Zip Code and County:** Provide the physical address of the project.  
**Latitude/Longitude:** Provide the general site latitude and longitude of the operation.  
**SIC Code:** Enter the Standard Industrial Code for the project

#### SECTION III – SITE ACTIVITY INFORMATION

**For single projects provide the following information:**

**Total number of acres in project:** Indicate the total acreage of the project including both disturbed and undisturbed areas.  
**Total number of acres to be disturbed:** Indicate the total number of acres of the project to be disturbed.  
**Anticipated start date:** Indicate the approximate date of when construction activities will begin.  
**Anticipated completion date:** Indicated the approximate date of when final stabilization will be achieved.

**For common plans of development provide the following information:**

**Total number of acres in project:** Indicate the total acreage of the project including both disturbed and undisturbed areas.  
**Number of individual lots in development, if applicable:** Indicate the number of individual lots or unit in the common plan of development  
**Number of lots to be developed:** Indicate the number of lots that you intend to develop.  
**Total acreage of lots intended to develop:** Indicate the total acreage of the lots you intend to develop  
**Total acreage intended to disturb:** Indicate the total acreage of the lots you intend to disturb  
**Number of acres intended to disturb at any one time:** Indicate the maximum number of acres to be disturbed at any one time.  
**Anticipated start date:** Indicate the approximate date of when construction activities will begin.  
**Anticipated completion date:** Indicated the approximate date of when final stabilization will be achieved.  
**List of contractors:** Provide the names of all known contractors that will be working on site.



**KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM  
FORM NOI-SWCA – INSTRUCTIONS**

**SECTION IV – IF THE PERMITTED SITE DISCHARGES TO A WATER BODY THE FOLLOWING INFORMATION IS REQUIRED**

**Name of Receiving Water:** Provide the names of the each water body receiving discharges from the site. Provide only official USGS names do not provide local names

**Anticipated number of discharge points:** Indicate the number of discharge points to each receiving water body.

**Location of anticipated discharge points:** Provide the latitude and longitude of each discharge point. Add points as necessary.

**Receiving Water Body Stream Use Designation:** Check all appropriate boxes

**Antidegradation Categorization:** Select from the drop down box one of the following:

Outstanding National Resource Water  
Exceptional Water  
High Quality Water  
Impaired Water

**SECTION V – IF THE PERMITTED SITE DISCHARGES TO A MS4 THE FOLLOWING INFORMATION IS REQUIRED**

**Name of MS4:** Provide the name of the MS4 to which the activity will discharge

**Number of discharge points to the MS4:** Indicate the number of discharge points

**Location of each discharge point:** Provide the latitude and longitude of each discharge point. Add points as necessary

**Date of application/notification to the MS4 for construction site permit coverage:** Indicate the date the MS4 has or will be notified.

**SECTION VI – CONSTRUCTION ACTIVITIES IN OR ALONG A WATER BODY**

**Will the project require construction activities in a water body or the riparian zone:** Select Yes or No from the drop down box.

**If Yes, describe scope of activity:** Provide a brief description of the activity (ies) that will take place in the water body or the riparian zone.

**Is a Clean Water Act 404 permit required:** Select Yes or No from the drop down box.

**Is a Clean Water Act 401 Water Quality Certification required:** Select Yes or No from the drop down box.

**SECTION VII – NOI PREPARER INFORMATION**

Provide the name, mailing address, telephone number and eMail address of the person preparing the NOI.

**SECTION VIII – Attachments**

Attach a USGS topographic map indicating the location of the activity and the proposed discharge points.

**SECTION IX – CERTIFICATION**

Provide the name, mailing address, telephone number and eMail address of the person who is responsible for the activity

**Signature:** Provide full name of the responsibility party. This will constitute a signature.

The NOI must be signed as follows:

**Corporation:** by a principal executive officer of at least the level of vice president

**Partnership or sole proprietorship:** by a general partner or the proprietor respectively

**TECHNICAL SPECIFICATIONS**

**WESTERN PULASKI COUNTY WATER DISTRICT  
PULASKI COUNTY, KENTUCKY**

**WATER SYSTEM IMPROVEMENTS & REPLACEMENTS:  
CONTRACT 3 – LESS FORD AREA**

**PROJECT NO. 2132**

**MAY 2021**

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## SECTION 1 - WATER MAINS

1.0 Work Included. Under this item the Contractor shall provide all labor, tools, equipment, and materials to furnish and install the water mains as shown on the drawings and as directed

1.1 Water Pipe Materials. All pipe materials shall conform to the manufacturer's standard lengths and diameters. Testing when required by the Owner shall be done in accordance with the appropriate ASTM specifications for the material selected. The water main type shall be PVC water pipe or ductile iron.

1.1.1 Polyvinyl Chloride Pipe PVC SDR 17 or SDR 21. PVC pipe shall comply with ASTM D-1784 for material and shall be Class 250 (SDR 17) or Class 200 (SDR 21) as shown on the drawings or indicated on the bid form. All PVC pipe shall conform to the latest revisions of the following specifications:

ASTM D2241 (PVC Plastic Pipe SDR-PR and Class T)  
National Sanitation Foundations Testing Laboratories (NSF)

The name of the manufacturer of the plastic pipe to be used must be found on the current listing of Plastic Materials for Potable Water Application, published by the NSF (National Sanitation Foundation), and must meet the requirements of the Standard Specification for Polyvinyl Chloride (PVC) Plastic Pipe, D1784, 12454-B (PVC 1120) published by ASTM. Rubber gaskets shall conform to ASTM D3139.

Wall thickness shall be in accordance with ASTM D-2241. Pipe ends shall be beveled to accept the coupling with gasket. The bell section shall be designed to be as strong as the pipe wall.

Samples of pipe physical and chemical data sheets shall be submitted to the Engineer for approval prior to the pipe being purchased.

The pipe shall be homogeneous throughout and free from cracks, holes, foreign inclusions, or other defects. The pipe shall be as uniform as commercially practical in color and shall have a ring painted around the spigot ends in such a manner as to allow field checking of setting depth of the pipe in the socket. Pipe must be delivered to the job site by means that will adequately support it and not subject it to undue stresses. In particular, the load shall be so supported such that the bottom rows of pipe are not damaged by crushing. The pipe shall be unloaded carefully and stored as close to the final point of placement as is practical.

Pipe markings shall include the following marked continuously down the length:

Manufacturer's Name  
Nominal Size  
Class Pressure Rating  
PVC 1120  
NSF Logo  
Identification Code

The lubricant shall be that as recommended and supplied by the pipe manufacturer.

1.1.2 Polyvinyl Chloride Pipe (PVC) Cast Iron Pipe Size. This pipe shall meet the requirements of AWWA C900-75, latest revision, "Standard for Polyvinyl Chloride (PVC) Pressure Pipe, 4 inch through 12 inch for Water" and shall be furnished in cast iron pipe equivalent outside diameters with separate couplings including gaskets.

The pipe shall be made from Class 12454-A or Class 12454-B virgin compounds as defined in ASTM D-1784. The standard code designation shall be PVC 1120. The PVC compounds shall be tested and certified as suitable for potable water products by the NSF approval marking.

Solvent cement couplings or joints shall not be used. PVC joints using elastomeric gaskets shall be tested as assembled joints and shall meet the laboratory performance requirements specified in ASTM D-3139.

Pipe shall be pressure Class 200, DR 14 or Class 150, DR 18 as shown on the drawings or the bid form.

Pipe and Couplings shall be marked as follows:

Nominal Size and OD Base  
Material Code Designation (PVC 1120)  
Dimension Ratio Number  
AWWA Pressure Class  
AWWA Designation Number (AWWA C900)  
Manufacturers Name or Trade Mark and Production Record Code  
Seal of the NSF Laboratory

Each standard and random length of pipe shall be proof tested at four times its rated class pressure for a minimum of 5 seconds. Bells or couplings shall be tested with the pipe.

The pipe shall not split, crack, or break when tested by the parallel plato method, and it shall not flake or disintegrate when tested by the acetone immersion method as specified by ASTM D-2241.

1.1.3 Ductile Iron Pipe. Ductile Iron Pipe shall be designed in accordance with AWWA (ASA A21.50) and for the conditions as stated in these specifications and the

pressure rating for the pipe shall be 350 PSI. Ductile iron pipe shall conform to AWWA C-151 (ASA A21.51). Pipe shall be cement lined in accordance with AWWA C104 (ASA A21.4) and all exposed pipe and fittings shall have a shop prime coat applied that is compatible with subsequent field enamel paint coats.

The specified thickness will be determined for the given internal and external loading requirements in accordance with ASA A21.50 and will be shown on the drawings or the bid form.

The net weight, class or nominal thickness and sampling period shall be marked on each pipe.

Pipe joints shall be mechanical joint, rubber ring slip joint, flanged, or locked mechanical joint equal to AWWA C-111.

1.1.4 Fittings. Ductile Iron mechanical joint fittings with appropriate adapters shall be used with PVC pipe and ductile iron pipe. Fittings shall comply with AWWA C-110 or C-111 and shall be manufactured for the size and pressure class of the line on which they are used. Compact fittings are acceptable and they shall conform to the latest AWWA specifications.

Mechanical joint fittings shall be used with ductile iron pipe for below ground burial and flange fittings shall be used for all interior piping where ductile iron pipe is used. Restraint devices for mechanical joint fittings shall be used with all ductile iron fittings and PVC pipe. Restraints shall conform to either ANSI/AWWA C111/A21.11 or ANSI/AWWA C153/A2153 and shall be manufactured for size and pressure class of the line on which they are used. Restraint devices for nominal pipe sizes 3-inch through 36-inch shall consist of multiple gripping wedges incorporated into a follower gland meeting the applicable requirements of ANSI/AWWA C110/A21.10. Mechanical joint restraints shall be the MEGALUG<sup>®</sup> Restraint Series 2000 as manufactured by EBAA Iron, Inc., or approved equal.

1.2 Pipe Handling. Pipe delivered to the site shall be stored, handled, distributed, placed, joined together, etc. in accordance with the manufacturer's recommendation unless directed otherwise by the Engineer.

1.3 Water Main Location. The water main shall be installed in the locations as shown on the drawings and as directed by the Engineer. The Contractor and Engineer shall agree as to the exact location of the water line and there shall be no disputes unless it is clear that the proposed location significantly deviates from the drawings. At those locations where the drawings indicate that a fitting must be installed either by declaration on the drawings or by a defined bend as shown on the drawings, the Contractor shall do so and shall avoid over deflection of the pipe.

1.4 Excavation. The Contractor shall make trench excavations to only such width to provide ample room for proper construction. Sheeting and shoring shall be provided as required for proper safety and compliance with OSHA regulations. Rock excavation shall be taken to a depth of 6 inches below the bottom of the pipe. If poor foundation conditions exist due to unstable subsurface conditions, the trench shall be under excavated to the depth required and filled with stone to obtain proper bearing capacity.

Watchmen or barricades, lanterns, and other such signs and signals as is necessary to warn the public of the dangers in connection with open trenches, excavations and other obstructions shall be provided by and properly maintained at the expense of the Contractor.

Only one half of street crossings and road crossings shall be excavated before placing temporary bridges over the excavation.

1.5 Blasting and Rock Excavation. The Contractor shall make his own investigation as he deems necessary to ascertain the sub surface conditions to be encountered in the work.

All blasting operations shall be conducted in accordance with municipal ordinances, state and federal laws and the applicable blasting codes. Soil particle velocity shall not exceed the limit set by Kentucky law. All explosives shall be stored in conformity with the applicable ordinances, laws and safety regulations. No blasting shall be done within five feet of any water mains, sewer lines, natural or manufactured gas lines, liquid petroleum lines, or other utilities.

The Contractor shall use delay caps or other approved methods to reduce earth vibrations and noise. Mud capping shall not be permitted as a method to breaking boulders. No blasting shall be permitted on Sundays or after dark.

Prior to commencing with the work, the Contractor shall, during a preconstruction conference with the Owner and Engineer, state clearly his approach to performing the excavations on the project. He shall be familiar with the laws and ordinances covering blasting and shall also give consideration to the use of hydraulically operated rock breaking devices in lieu of blasting where considered necessary. If blasting is not handled in an expert manner at all times the Engineer reserves the right to suspend blasting and require the work to proceed without it. Prior to blasting, the Contractor shall make his own detailed preblast survey of adjacent walks, curbs, retaining walls, house foundations, etc. to determine conditions prior to the work. Such a file of information, including photographs, may be certified in such a manner as the Contractor believes necessary. This information if required or performed shall be supplied to the Engineer prior to performing the work.

1.6 Storage of Excavated Material. All excavated material shall be stored in a manner that will not endanger the work and that will avoid obstructing roadways, sidewalks, and driveways. Hydrants under pressure, valve pit covers, valve boxes, curb stop boxes, fire and police call boxes, or other utility controls shall be left unobstructed and accessible.

Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.

1.7 Shoring Sheeting and Bracing. The Contractor shall furnish place and maintain such sheeting and bracing as may be required to support the sides of the excavation or to protect other structures from possible damage. All sheeting and bracing shall be removed upon completion of the work unless permitted to be left in place by the Engineer. Any sheeting or bracing left in place shall be cut off at least two feet below the finished ground surface elevation. The cost of furnishing, placing, maintaining, and removing sheeting and bracing shall be included in the unit price bid for water lines and all work shall conform the OSHA requirements.

1.8 Bedding and Backfill. All water mains shall be bedded with select earth backfill or six inches of #9 or approved equal stone under and on both sides of the pipe where it is installed along the unpaved areas. Where the water line is installed along the paved areas the water line shall be backfilled with #9 or approved equal stone. Trenches shall be backfilled immediately after the water main has been installed. No rock larger than two inches will be permitted within six inches of the pipe. In unpaved or unsurfaced areas the remainder of the fill may be mounded over the top of the trench. Where trenches are in paved or traveled areas, or yard areas, compaction shall be performed during backfill. The Contractor at no time shall open up more than 500 feet of trench.

Any damage to underground structures, pipes wires, drains, etc., shall not be backfilled until they have been satisfactorily repaired or replaced to the original serviceability at the Contractor's expense and as approved by the Engineer. Settlement of backfill may be done with water furnished by the Contractor under the direction of the Engineer where such will not endanger traffic or damage property. When excavated rock is used for backfilling, it shall have sufficient dirt or fine material to fill all voids and shall not be used within twelve inches of the pipe.

To be accepted as final cleanup all excess rock one inch and larger shall be removed from the disturbed site.

1.9 Thrust Blocks and Anchorage. Thrust blocks shall be installed at all tees, bends, crosses, dead ends, valves, hydrants, blowoff assemblies, and as directed by the Engineer. The size of the thrust block shall depend on the soil and type of fitting, and shall conform to the pipe manufacturer's recommendations. At any location where a vertical bend is required the Contractor shall install the anchorage as directed by the Engineer in conjunction with the pipe manufacturer.

Thrust blocks shall be constructed of Class B concrete conforming to KBH Specification 601 and placed between the fitting and the trench wall. At no time will sack-crete or pre bagged concrete mixtures be allowed. All thrust block and anchorage concrete shall be delivered to the job site by means of a ready mix concrete truck and placed immediately upon arrival.



The thrust blocks shall be sized as shown on the detail drawings or as directed by the Engineer.

1.10 Temporary Surfacing. All trenches in paved areas shall, following compacted backfill, receive a top layer of compacted dense grade stone as shown on the detailed drawings. Such temporary surfacing shall be maintained and shall be paved as soon as conditions permit.

1.11 Hydrostatic Testing. The water line and appurtenances, as rapidly as valves are installed, shall be hydrostatically tested in accordance with these specifications. Defective joints of pipe shall be replaced as directed by the Engineer. Cracked or defective pipe, fittings, valves, or hydrants shall be replaced by the Contractor and the test shall be repeated until the test results are satisfied. All meter settings and service tubing as shown on the drawings shall be included in the hydrostatic test.

The test pressure shall not be less than 1.25 times the working pressure at the highest point along the test section and the hydrostatic test shall be of at least a two hour duration. The test pressure shall not vary by more than five psi. for the duration of the test.

1.11.1 Pressurization. After the pipe has been installed all or any valved section shall be subjected to the hydrostatic test. Each valved section of the pipe shall be slowly filled with water and the specified test pressure, corrected to the elevation of the test gauge, shall be applied by means of a pump connected to the pipe in a manner satisfactory to the Engineer. As part of the testing equipment a meter shall be installed to measure all water added to the tested section.

1.11.2 Air Removal. Before applying the specified test pressure, air shall be expelled completely from the pipe, valves, and hydrants. If permanent air vents are not located at all high points, the Contractor shall install corporation cocks at such points so that the air can be expelled as the line is filled with water. After all the air has been expelled, the corporation cocks shall be closed and the test pressure applied. At the conclusion of the pressure test, the corporation cocks shall be removed and plugged or left in place at the discretion of the Owner.

1.11.3 Leakage Defined. Leakage shall be defined as the quantity of water that must be supplied into the newly laid pipe or any valved section thereof to maintain pressure within five psi. of the specified test pressure after the pipe has been filled with water and the air has been expelled. Leakage shall not be measured by a drop in pressure in a test section over a period of time.

1.11.4 Allowable Leakage. No pipe installation will be accepted if the leakage is greater than that determined by the following formula:

$$L = \frac{SD\sqrt{P}}{133,200}$$

Where:

L = allowable leakage in gallons per hour

S = length of pipe tested in feet

D = nominal diameter of the pipe in inches

P = average test pressure during the leakage test in pounds per square inch

This formula is based on an allowable leakage of 11.65 gpd./mi./in. of nominal diameter at a pressure of 150 psi.

All leaks shall be repaired whenever or wherever there is evidence of a leak. Water used by the Contractor shall be paid for by the Contractor at the rate of \$2.00 per 1,000 gallons.

1.12 Sterilization. Upon completion and acceptance of the hydrostatic test of a section of the water main that section shall be thoroughly disinfected before being placed in service by the use of chlorine or chlorine compounds in such amounts as to produce a concentration of not less than 50 ppm and a residual of not less than 25 ppm at the end of 24 hours and followed by thorough flushing. Putting small amounts of chlorine in each joint will not be acceptable.

1.13 Other Utilities. Other utilities encountered in the work shall be preserved and protected. Where relocation or repair is required to accommodate the work it shall be made in a manner acceptable to the utility having jurisdiction over the service connection. Accommodation of service connections shall not constitute any basis for extra payment.

Prior to construction, the Contractor shall arrange to meet with representatives of all utilities, and provide them with his anticipated work schedule. The Contractor shall have the utility companies make their best determination of utility locations in the areas in which he is working. Throughout the progress of the work such field markings of utilities shall be kept current.

1.14 Payment for Water. All water used from the Owner shall be metered by meters supplied by the Contractor. The Contractor shall pay for such water at the rate of \$2.00 per 1,000 gallons. This shall include any unmetered water lost which shall be computed on the basis of a discharge velocity of seven feet per second, the diameter of the line, and the estimated duration of free uncontrolled discharge or the approved method.

1.15 Cleanup. The Contractor shall provide effective cleanup of the work as it progresses. At the time of final inspection no trenches shall show any undue evidence of the construction. All areas shall be left free of ruts due to construction and shall have a clean and neat appearance without rubble or debris. The areas shall not be mounded and shall be completely restored, and all yards and fields shall be reseeded. Straw and fertilizing shall accompany the seeding and the seed mixture shall match the existing ground cover. If necessary to hasten proper restoration of terraces, principally along ditch lines, the Contractor shall sod such areas at the Engineer's direction.

1.16 Protection of Adjacent Landscape. Reasonable care shall be taken during construction of the process lines to avoid damage to vegetation. Ornamental shrubbery and tree branches shall be temporarily tied back, where appropriate, to minimize damage. Trees which receive damage to branches shall be trimmed of those branches. Tree trunks receiving damage from equipment shall be treated with a tree dressing.

1.17 Underground Tracer Wire. At all locations where plastic water line piping is utilized, one strand of Number 12 solid copper wire shall be placed in the trench approximately six inches below the finished grade.

1.18 Underground Marking Tape. At all locations where PVC pipe is utilized a detectable underground marking tape shall be placed in the trench approximately six inches below the finished grade. The tape used shall be mylar encased aluminum foil with the printing "CAUTION - Buried Water Line Below." Printing shall be readable through the clear mylar and surface printing is not acceptable. Tape size shall be two inch width as provided by Lifeguard, Inc. or approved equal. Color of the tape shall be blue.

1.19 Payment. Payment shall be included in the payment for the work to which it is subsidiary in the Bid Schedule.

## SECTION 2 - CASING PIPE

2.0 Work Included. Under this item the Contractor shall provide all labor, tools, equipment, and materials to furnish and install casing pipes as shown on the drawings.

2.1 Materials. Bored and jacked casing pipe shall be plain end steel pipe conforming to AWWA Specification C200 with a minimum yield strength of 35,000 psi. The inside diameter of the casing pipe shall be a minimum of four inches greater than the largest outside diameter of the water pipe, joint or coupling.

The minimum wall thickness shall be in accordance with the following table:

<u>Diameter of Casing-Inches</u>	<u>Minimum Wall Thickness-Inches</u>	
	<u>Under Railroads</u>	<u>All Other Uses</u>
12-3/4 and under	0.188	0.188
14	0.250	0.250
16	0.281	0.250
18	0.312	0.250
20 and 22	0.344	0.250

Casing pipe shall have continuously welded joints. Any field welding shall be performed by a certified welder and shall be in accordance with AWWA Specifications C206

2.2 Prior Approvals. Prior to boring and jacking under roadways the Contractor shall submit drawings and other necessary information regarding the proposed construction to the Engineer for approval by the proper authorities if requested.

2.3 Bore and Jack Construction. The Contractor shall investigate the subsurface conditions which will be encountered and shall base his bid on his findings. No distinction shall be made between boring through earth and boring through rock.

The Contractor shall provide a jacking pit, bore through the earth and or rock, and jack the casing pipe into place at the proper line and grade as the bore is being made. "Free boring" will not be allowed unless directed by the Engineer. The carrier pipe shall be pushed through the casing pipe with care being taken to insure that the pipe joints are tight and properly made. Shims attached to the carrier pipe to prevent floating shall be redwood or that as specifically made for the application.

The approach trench shall be large enough to accommodate one section of casing pipe and the jacks and blocking. Two rails or sills shall be laid in the bottom of the trench to keep the casing at the established line and grade.

The installation procedure must be such that the casing pipe is placed concurrently with the removal of the soil. The outside diameter of the lead auger section must not be less than one half inch smaller in diameter than the casing inside diameter.

The ends of the casing pipe shall be plugged and made watertight prior to backfilling. A neoprene gasket that will slip over the cover pipe and allow the carrier pipe to pass through will be considered water tight.

2.4 Traffic Control Devices and Maintenance of Traffic. The proper placement and maintenance of traffic control devices and the maintenance of traffic flows shall comply with the standards set forth under the General Specifications.

The Contractor shall notify the proper City, County, or State officials prior to the commencement of boring and jacking or tunnel operations.

2.5 Open Cut Construction. Where steel casing pipe is to be installed by open cutting rather than by boring or jacking the same casing pipe as described above will be utilized.

2.6 Measurement and Payment. The unit price bid per linear foot for boring and jacking, as measured from end to end of the casing pipe, shall constitute full compensation for the work as specified. Open cut steel casing pipe as measured from end to end of the casing pipe shall constitute full compensation for the work as specified. Carrier pipes shall be furnished under the item as described in other portions of these technical specifications.

## SECTION 3 - CREEK CROSSING

3.0 Work Included. Under this item the Contractor shall provide all labor, tools, equipment, and materials to install creek crossings as shown on the drawings and as directed.

3.1 Materials. The creek crossing shall be installed as per the detailed drawings or as described herein and the casing pipe shall be PVC pipe. In the event where a casing pipe is not required the creek crossing shall be installed with ductile iron. All carrier pipe and casing pipe shall be that as described in other sections of these technical specifications or as shown on the plan sheets

3.2 Installation. The creek crossings shall be installed with plastic carrier pipe placed within a plastic casing pipe, or ductile iron carrier pipe without a casing pipe unless specified otherwise. Where a plastic casing pipe is used it shall be of the minimum size to accommodate the carrier pipe. The casing pipe or water line pipe without casing pipe shall be placed a minimum of 30 inches below the bed of the stream, creek, or river and a twelve inch minimum layer of crushed stone shall be placed above the pipe where a casing pipe is not required. Class B concrete shall be placed between the crushed stone and the base of the stream, creek, or river, or between the casing pipe and the base of the waterway. Where concrete is placed, all water from the stream shall be diverted away from the area of concrete placement by means of diversion pipes or temporary embankments.

3.3 Payment. The unit bid shall constitute full compensation for furnishing and installing the creek crossings.

## SECTION 4 – VALVE AND VALVE BOX

4.0 Work Included. Under this item the Contractor shall provide all labor, tools, equipment, and materials to install gate valves, butterfly valves, and valve boxes at the locations as shown on the drawings and as directed by the Engineer.

4.1 Materials. All gate valves shall be resilient wedge seat gate valves which fully comply with the latest revision of AWWA C509, and shall also be UL listed and FM approved. The valves shall be tested and certified to ANSI/NSF 61. The valves shall have a 250 psig working pressure. The valve type shall be NRS (non-rising stem) and the valve shall have an arrow cast on the 2” square operating nut which shows the opening direction. The direction of opening shall be shall to the left. The bolt that attaches the operating nut to the stem shall be recessed into the operating nut so as not to interfere with valve wrench operation.

The valves shall have bolts and nuts for the stuffing box and bonnet with one of the following compositions:

- a. Steel, ASTM A-307, Grade B zinc plated.
- b. Type 304 stainless steel.
- c. Type 316 stainless steel.

Valve stems shall be made of bronze ASTM B-132 alloy C67600 bar stock material. The stem shall have at least one “anti-friction” thrust washer above and below the stem collar to reduce operating torque. The design of the valve stem shall be such that if excessive input torque is applied, stem failure shall occur above the stuffing box at such a point as to enable the operation of the valve with a pipe wrench or other readily available tool. The stem material shall provide a minimum 70,000 psi tensile strength with 15% elongation and yield strength of 30,000psi. Valves with cast stems or two piece stem collars are not acceptable.

The valves shall have a stuffing box that is o-ring sealed. Two o-rings shall be placed above and one o-ring below the stem thrust collar. The thrust collar shall be factory lubricated. The thrust collar and its lubrication shall be isolated by the o-rings from the waterway and from outside contamination providing permanent lubrication for long term ease of operation. Valves without a stuffing box are unacceptable. Valves without at least three stem o-rings are also unacceptable. The valve body, bonnet, stuffing box, and disc shall be composed of ASTM A-126 Class B grey iron or ASTM A395 or A536 ductile iron. The body and bonnet shall also adhere to the minimum wall thickness as set forth in Table 2, section 4.3.1 of AWWA C509.

The valve disc and guide lugs must be fully (100%) encapsulated in SBR ASTM D2000 rubber material. The peel strength shall not be less than 75 pounds per inch. Guide caps of an acetal bearing material shall be placed over solid guide lugs to prevent abrasion and to reduce the operating torque.

The valves shall have all internal and external ferrous surfaces coated with a fusion bonded thermosetting powder epoxy coating of 10 mils nominal thickness. The coating shall conform to AWWA C550.

Tapping valves shall have an inlet flange conforming to ANSI B16.1 Class 125 for attachment to a tapping sleeve or cross. In addition, the valve inlet flange shall have a machined projection or raised face complying with MSS SP-60 for accurate alignment to the mating recess in the tapping sleeve flange. The seat opening of the tapping valves shall be at least .30" larger than the nominal pipe size to permit full diameter cuts.

The valves shall be warranted by the manufacturer against defects in materials or workmanship for a period of ten (10) years from the date of manufacture. The manufacturing facility for the valves must have current ISO certification.

Each valve shall have the manufacturer's initials, pressure rating, and the year in which manufactured, cast onto the body. The manufacturer shall be Mueller Co. or approved equal

Valve boxes shall be of cast iron extension type with screw or slide adjustments and flared base. The minimum thickness of metal shall be 3/16". The cover shall have the word "WATER" cast in the metal. Valve boxes shall be installed over each outside gate valve unless otherwise shown on the drawings. The boxes shall be of such length as to provide a depth of cover of not less than 30 inches over the pipe.

4.2 Installation. Valve boxes shall be set plumb and straight and with the operating nut directly in the center in thoroughly compacted earth with the top of the box level and projecting one fourth inch above paved streets and one inch above other areas. The valve boxes in unpaved areas shall have a four inch thick concrete slab three feet in diameter around and sloping away from the valve box.

4.3 Butterfly Valves. Butterfly valves shall be of the tight closing, rubber seated type and fully comply with the latest revision of AWWA Standard C504, Class as required, and ANSI/NSF 61. Valves shall be bubble-tight at rated pressure class in either direction, and shall be satisfactory for applications, involving throttling service and for applications requiring valve actuation after long periods of inactivity. Valve discs shall rotate 90° from the full open position to the tight shut position. Regardless of valve size, angular disposition of disc can be up to 1" off center without leakage.

The valves shall be rated for minimum operating pressure of 250 psi. Valve bodies shall be constructed of ductile iron ASTM-A536, Grade 65-45-12. Flanged valves shall be fully faced and drilled in accordance with ANSI Standards B16.1, Class 250. Rubber body seats shall be of one-piece construction, simultaneously molded and bonded into a recessed cavity in the valve body protecting the leading edge of the seat from shearing force of the line flow. Seats may not be located on the disc or be retained by segments and/or screws. For wafer style valves, the seat shall cover the entire inner surface of the valve body and extend over the outside face of the valve body to form a flange gasket.



Valve shaft shall be stainless steel ASTM-A564 Type 630 Condition H-1100. Stub shafts or through shafts are acceptable. At the operator end of the valve shaft, a packing gland utilizing “V” type chevron packing shall be utilized. “O” ring and “U” cup packing is not allowed. Bearings shall be of a self-lubricating, nonmetallic material to effectively isolate the disc-shaft assembly from the valve body. Metal-to metal thrust bearings in the flow stream are not allowed.

Valve discs shall be an on-center, lens-shaped design to afford minimal pressure drop and line turbulence. Materials of construction shall be: ASTM A126, Class B cast iron disc and a stainless-steel type 316 edge with a minimum width equal to the width of disc edge. Discs shall be retained by stainless steel pin, extending through the full diameter of the shaft to withstand the specified line pressure up to valve rating and the torque required to operate the valve. Disc stops located in the flow stream are not allowed.

All surfaces of the valve interior shall be clean, dry and free from grease before painting. The valve surfaces except for disc edge, rubber seat and finished portions shall be a minimum of 8 mils Ameron 370. All coatings shall conform to AWWA C550.

Operators shall be totally enclosed, permanently lubricated and sealed gear reducers. A vent shall be provided between the valve trunnion and actuator base to prevent infiltration of fluid into the actuator. The operator case shall be completely watertight, sealed by means of approved gaskets, gasket compounds, O-rings or threaded plugs. Operators shall be filled with a suitable oil lubricant or thoroughly coated with an approved grease at the factory. If the operator lubricant is oil, provide suitable fill and drain plugs. Operators shall be self-locking with a permanent factory set stop at each end of travel. Operators shall be self-locking with open and close stops provided to limit valve disc travel. They shall ensure that the disc will not creep or flutter under service conditions and that the seat will close at an angle of 90° from full open.

Valve Operators shall comply with AWWA C504, unless otherwise specified in these Specifications. The operational torque of each valve and operator shall be in accordance with Appendix of AWWA Standard C504 for velocity of 16 fps and applicable pressure drop across valve. Operators shall be sized for bi-directional flow and 450 ft-lb input torque. The required input torque shall allow a maximum hand wheel pull of 80 ft.-lbs. for hand wheels and chain wheels, or 150 ft.-lbs. for operating nuts.

Butterfly valves designated for direct bury installations shall be installed in accordance with the detailed drawings. They shall be furnished with mechanical joint end connections, a 2-inch square operating nut and an accompanying valve box.

Butterfly valves designated for interior or exposed piping applications shall be furnished with flanged end connections complying with ANSI B16.1, Class 250. Valves shall be equipped with an appropriate sized hand wheel operator with position indicators. Install valves with the valve shaft oriented in horizontal position unless otherwise shown on the drawings.

Butterfly Valves shall be as manufactured by Mueller Co. Lineseal XP series, or approved equal

4.4 Payment. The unit price bid shall constitute full compensation for furnishing and installing gate valves, butterfly valves, valve boxes, and other related appurtenances.

## SECTION 5 – FLUSH HYDRANT

5.0 Work Included. Under this item the Contractor shall provide all labor, tools, equipment, and materials to install the hydrants as shown on the drawings and as directed by the Engineer.

5.1 Materials. The hydrant shall conform to all of the applicable requirements of ANSI/AWWA C502 Standard. They shall have a sealed oil reservoir that will provide positive lubrication of the stem threads and bearing surfaces each time the hydrant is opened. The hydrant shoe shall be designed for maximum full flow and the hydrant working pressure shall be 200 PSI. The hydrant shall be two way type with two 2 1/2-inch openings or three way type with two 2 1/2-inch openings and one 4 1/2-inch opening as shown on the drawings and outlined in the Bid Schedule. The hydrant shall be Super Centurion 250 as manufactured by the Mueller Co., or approved equal.

5.2 Installation. The hydrants shall be set in accordance with the detailed drawings complete with gate valve and connecting pipe. The hydrant shall be installed perpendicular to the surrounding ground surface and the hydrant riser shall be completely buried. The depth of bury shall be the same as the adjoining water line. The shoe of the hydrant shall be encased in Class B concrete and the concrete shall extend to undisturbed earth. Gravel shall be placed around the hydrant on top of the concrete thrust restraint and at the weep hole a minimum depth of twelve inches in depth. Select earth backfill shall be compacted to fill the remaining excavated void and the surface shall match the surrounding surface. The hydrant shall be secured to the companion gate valve by means of a hydrant adapter and pipe restrainer or by other approved means. The hydrant adapter shall be the swivel by solid adapter with swivel gland type as manufactured by Tyler Pipe/Union Foundry Company, or approved equal. The direct connection of mechanical joint (MJ) fittings between the valves the tee and shall be made using Foster adapters where flush hydrants are indicated on the Construction Drawings. The Foster adapters shall be constructed of ductile iron and comply with applicable AWWA Standards. The Foster adapters shall be designed for a working pressure of 200 psi and to withstand a test pressure of 250 psi. Foster adapters shall be lined and coated in accordance with AWWA C104 and C110. Foster Adapter shall be as manufactured by Infact Corporation, or approved equal. The pipe restrainer shall be Grip Ring® Pipe Restrainer as manufactured by Romac Industries, Inc., or approved equal. The hydrant shall be coated with a prime coat and two finish coats of paint as suggested by the manufacturer and approved by the Engineer. The shop drawings shall indicate the coating and color proposal.

5.3 Payment. The unit price bid shall constitute full compensation for furnishing and installing the hydrant, gate valve, up to ten feet of water line, and any associated pipe fittings required to install the hydrant to the main water line.

## SECTION 6 – BLOWOFF ASSEMBLY

6.0 Work Included. Under this item the Contractor shall provide all labor, tools, equipment, and materials to install the Blowoff Assemblies as shown on the drawings and as directed.

6.1 Materials. Blowoff Assemblies shall consist of the valve, pipe, and fittings in accordance with these specifications and the corresponding drawings. The gate valve and piping shall be the same size and pressure class as the line it is connected to unless otherwise noted.

6.2 Installation. The Blowoff Assembly shall be installed at the locations as shown on the drawings and as outlined on the detail drawings.

6.3 Payment. The unit price bid shall constitute full compensation for the furnishing and installation of each Blowoff Assembly to include one gate valve, piping, blocking, valve box, fittings and gravel.

## SECTION 7 - CONNECTION

7.0 Work Included. Under this item the Contractor shall provide all labor, tools, equipment, and materials to connect and disconnect water mains as shown on the drawings and as directed.

7.1 Materials. The connections and disconnects shall be performed by the use of ductile iron mechanical joint fittings, approved tapping valves and sleeves, and water main pipe as shown on the drawings described elsewhere in these technical specifications. Concrete for thrust restraint shall be Class B concrete and sack-crete shall not be allowed.

7.2 Installation. Unless otherwise noted on the plans, connections shall be made with a tapping sleeve and valve and done so in accordance with the Owners schedule of operation. Once the main line has been tapped the new section of water main shall be valved off from the rest of the system by closing the tapping valve. The tapping valve shall remain closed until the Engineer has been satisfied that the new water main has been installed correctly, met the requirements of the hydrostatic test, been sanitized in accordance with the regulatory requirements, and any water main to be abandoned has been disconnected from the water system. The disconnection of a water main that is to be abandoned shall be accomplished by installing a blind flange at the point of abandonment and secured by means of a concrete thrust block. In the event where the thrust block shall be installed in the area of the abandoned water main a minimum three foot section of the abandoned water main shall be removed and the void replaced with concrete.

7.3 Payment. The unit price bid shall constitute full compensation for furnishing and installing the connections including any abandonment or disconnections of existing water mains. This shall include all fittings but water mains and gate valves shall be paid as per the bid schedule for those respective items.

## SECTION 8 -DIRECTIONAL DRILLING / BORING

8.0 Scope of Work. It is intent of this specification to define the acceptable methods and materials for installing water lines by the horizontal directional drilling method and the requirements for high density polyethylene (HDPE) pipe installed by horizontal directional drilling, directional boring, guided boring or in open cut trenches.

8.1 Requirements. Contractor shall provide HDPE pipe conforming to all standards and procedures, and meeting all testing and material properties as described in this specification for installation by horizontal directional drilling.

**The estimated length of each directional bore is indicated on the plan sheets. This stated length shall be the footage used for the contractors payment calculation regardless of the actual length required for installation.**

Contractor shall be responsible for all installation processes and procedures associated with the installation by horizontal directional drilling in accordance with this specification.

8.2 Installation Plan. At least 7 days prior to mobilizing equipment, Contractor shall submit his detailed installation plan to the Engineer.

The plan shall also include a listing of major equipment and supervisory personnel and a description of the methods to be used.

8.3 Variations in Plan or Profile. The Contractor may request changes to the proposed vertical and horizontal alignment of the installation and the location of the entry and exit points. Proposed changes shall be submitted in writing to the Engineer and receive approval of the Engineer prior to construction.

8.4 Alignment. The proposed plan and profile installation locations are based on alignments to accommodate acquired right-of-way, to avoid obstructions, and to properly maintain operation flow velocities.

8.5 Qualifications. Directional drilling and pipe installation shall be done only by an experienced Contractor specializing in directional drilling and whose key personnel have at least five (5) years experience in this work. Furthermore, the Contractor shall have installed directional drilled pipe at least as large as 18 inches in diameter, have performed crossings at least 650 feet in length, and successfully installed at least 2000 feet in length.

8.6 Products. High Density Polyethylene (HDPE) pipe accordance to these specifications shall be used in HDD installations. All piping system components shall be the products of one manufacturer and shall conform to the latest edition of ASTM D2447, ASTM D3350, and ASTM F714 for HDPE.

Pipe shall conform to the dimensionality and general characteristics of the mainline carrier piping to which it will be connected to. The inside diameter of the pipe to be used in HDD applications shall be equal to or greater than that of the mainline carrier piping.

8.7 Piping. Piping shall be extruded from a polyethylene compound and shall conform to the following requirements:

The polyethylene resin shall meet or exceed the requirements of ASTM D3350 for PE 3408 material with a cell classification of 335434C, or better. The polyethylene compound shall be suitably protected against degradation by ultraviolet light by means of carbon black, well dispersed by precompounding in a concentration of not less than 2 percent.

The maximum allowable hoop stress shall be 800 psi at 73.4 degrees F.

The pipe manufacturer shall be listed with the Plastic Pipe Institute as meeting the recipe and mixing requirements of the resin manufacturer for the resin used to manufacture the pipe in this project.

Joining shall be performed by thermal butt-fusion in accordance with the manufacturer's recommendations.

8.8 Concrete Restraint Wall. The contractor shall install a concrete restraint wall on each end of the HDD piping. The wall should be constructed as shown in the miscellaneous detail drawings. Details on concrete construction are included elsewhere in these specifications.

8.9 Execution. All HDD pipes shall be cut, fabricated, and installed in strict conformance with the pipe manufacturer's recommendations. Joining, laying, and pulling of HDD pipe shall be accomplished by personnel experienced in working with HDD pipe being used. The pipe supplier shall certify in writing that the Contractor is qualified to join, lay, and pull the pipe or representative of the pipe manufacturer shall be on site to oversee the pipe joining. Expense for the representative shall be paid for by the Contractor.

8.10 Transportation and Unloading. All pipe shall be bundled or packaged in such a manner as to provide adequate protection of the ends during transportation to the site. Care shall be taken during transportation of the pipe to ensure that it is not cut, kinked, or otherwise damaged. Any pipe damaged in shipment shall be replaced as directed by the owner or engineer.

Each pipe shipment should be inspected prior to unloading to see if the load has shifted or otherwise been damaged. Notify owner or engineer immediately if more than immaterial damage is found. Each pipe shipment should be checked for quantity and proper pipe size, color, and type.

Pipe should be loaded, off-loaded, and otherwise handled in accordance with AWWA M23, and all of the pipe supplier's guidelines shall be followed. Off-loading devices such as chains, wire rope, chokers, or other pipe handling implements that may scratch, nick, cut, or gouge the pipe are strictly prohibited.

During removal and handling, be sure that the pipe does not strike anything. Significant impact could cause damage, particularly during cold weather.

If appropriate unloading equipment is not available, pipe may be unloaded by removing individual pieces. Care should be taken to insure that pipe is not dropped or damaged. Pipe should be carefully lowered, not dropped, from trucks.

8.11 Handling and Storage. Any length of pipe showing a crack or which has received a blow that may have caused an incident fracture, even though no such fracture can be seen, shall be marked as rejected and removed at once from the work. Damaged areas, or possible areas of damage may be removed by cutting out and removing the suspected incident fracture area. Limits of the acceptable length of pipe shall be determined by the owner or engineer. Any scratch or gouge greater than 10% of the wall thickness will be considered significant and can be rejected unless determined acceptable by the owner or engineer.

Pipe shall be stored and stacked per the pipe supplier's guidelines. Pipe lengths should be stored and placed on level ground. Pipe should be stored at the job site in the unit packaging provided by the manufacturer. Caution should be exercised to avoid compression, damage, or deformation to the ends of the pipe. . If pipe is to be stored for periods of 1 year or longer, the pipe should be shaded or otherwise shielded from direct sunlight. Covering of the pipe which allows for temperature build-up is strictly prohibited. Pipe should be covered with an opaque material while permitting adequate air circulation above and around the pipe as required to prevent excess heat accumulation.

The open ends of all sections of joined and/or installed pipe (not in service) shall be plugged at night to prevent animals or foreign material from entering the pipe line or pipe section. Waterproof nightcaps of approved design may be used but they shall also be so constructed that they will prevent the entrance of any type of natural precipitation into the pipe and will be fastened to the pipe in such a manner that the wind cannot blow them loose. The practice of stuffing cloth or paper in the open ends of the pipe will be considered unacceptable.

Pipe shall be handled and supported with the use of woven fiber pipe slings or approved equal. Care shall be exercised when handling the pipe to not cut, gouge, scratch or otherwise abrade the piping in any way. Where possible, the pipe shall be raised and supported at a suitable distance back from the open end such that the open end will be below the level of the pipe at the point of support.



## 8.12 Installation.

The Contractor shall install the pipelines by means of horizontal directional drilling. The Contractor shall assemble, support, and pretest the pipeline prior to installation in the directional drill tunnel.

Horizontal directional drilling shall consist of the drilling of a small diameter pilot hole from one end of the alignment to the other, followed by enlarging the hole diameter for the pipeline insertion. The exact method and techniques for completing the directionally drilled installation will be determined by the Contractor, subject to the requirements of these Specifications.

The Contractor shall prepare and submit a plan to the Engineer for approval for insertion of the HDD pipe into the opened bore hole. This plan shall include pullback procedures, ballasting, use of rollers, side booms and side rollers, coating protection, internal cleaning, internal gauging, hydrostatic tests, dewatering, and purging.

The required piping shall be assembled in a manner that does not obstruct adjacent roadways or public activities. The Contractor shall erect temporary fencing around the entry and exit pipe staging areas.

8.13 Joining Pipe Sections. The joining of pipe sections shall be completed by a Fusion Technician who is fully qualified by the pipe supplier to install the HDD pipe of the type(s) and size(s) being used. Qualification shall be current as of the actual date of fusion performance on the project.

HDD pipe will be handled in a safe and non-destructive manner before, during, and after the fusion process and in accordance with this specification and pipe supplier's guidelines. The fusion process shall be performed by qualified fusion technicians, as documented by the pipe supplier. Each fusion joint shall be recorded and logged by an electronic monitoring device (data logger) connected to the fusion machine.

Only appropriately sized and outfitted fusion machines that have been approved by the pipe supplier shall be used for the fusion process. Fusion machines must incorporate the following elements:

HEAT PLATE - Heat plates shall be in good condition with no deep gouges or scratches. Plates shall be clean and free of any debris or contamination. Heater controls shall function properly; cord and plug shall be in good condition. The appropriately sized heat plate shall be capable of maintaining a uniform and consistent heat profile and temperature for the size of pipe being fused, per the pipe supplier's guidelines.

CARRIAGE – Carriage shall travel smoothly with no binding at less than 50 psi. Jaws shall be in good condition with proper inserts for the pipe size being fused. Insert pins shall be installed with no interference to carriage travel.

GENERAL MACHINE - Overview of machine body shall yield no obvious defects, missing parts, or potential safety issues during fusion.

DATA LOGGING DEVICE – An approved datalogging device with the current version of the pipe supplier’s recommended and compatible software shall be used. Datalogging device operations and maintenance manual shall be with the unit at all times. If fusing for extended periods of time, an independent 110V power source shall be available to extend battery life.

Other equipment specifically required for the fusion process shall be used as necessary. Pipe rollers shall be used for support of pipe to either side of the machine. A weather protection canopy that allows full machine motion of the heat plate, fusion assembly and carriage shall be provided for fusion in inclement, extreme temperatures, and /or windy weather, per the pipe supplier’s recommendations. An infrared (IR) pyrometer for checking pipe and heat plate temperatures. Fusion machine operations and maintenance manual shall be kept with the fusion machine at all times. Facing blades specifically designed for cutting HDPE pipe shall be used.

Each fusion joint shall be recorded and logged by an electronic monitoring device (data logger) connected to the fusion machine. The fusion data logging and joint report shall be generated by software developed specifically for the butt-fusion of HDPE. The software shall register and/or record the parameters required by the pipe supplier and these specifications. Data not logged by the data logger shall be logged manually and be included in the Fusion Technician’s joint report.

8.14 Testing. The pipe shall be hydrostatically tested after joining into continuous lengths prior to installation and again after installation. Pressure and temperature shall be monitored with certified instruments during the test. After this test, the water will be removed with pigs. Erosion prevention procedures will be used during removal and discharge of the water. Hydrostatic testing shall be performed in accordance with Section 1 of the Specifications. All costs associated with acquiring water for testing shall be included in the established contract unit bid prices.

8.15 Tolerances. Pipe installed by the directional drilled method must be located in plan as shown on the Drawings, and must be no shallower than shown on the Drawings unless otherwise approved. The Contractor shall plot the actual horizontal and vertical alignment of the pilot bore at intervals not exceeding 30 feet. This “as built” plan and profile shall be updated as the pilot bore is advanced. The Contractor shall at all times provide and maintain instrumentation that will accurately locate the pilot hole and measure drilling fluid flow and pressure. The Contractor shall grant the Engineer access to all data and readout pertaining to the position of the bore head and the fluid pressures and flows.

When requested, the Contractor shall provide explanations of this position monitoring and steering equipment. The Contractor shall employ experienced personnel to operate the directional drilling equipment and, in particular, the position monitoring and steering equipment. No information pertaining to the position or inclination of the pilot bores shall be withheld from the Engineer.

Sags in the pipeline shall not exceed 5 percent of the nominal pipe diameter. Sags will only be allowed where the entering and exiting grades are adequate to provide velocities through the sag area sufficient for moving solids. No more than (1) sag area shall occur between two (2) manholes. The alignment of each pilot bore must be approved by the Engineer before pipe can be pulled. If the pilot bore fails to conform to the above tolerances, the Engineer may, at his option, require new pilot boring to be made.

After the pipe is in place, cleaning pigs shall be used to remove residual water and debris. After the cleaning operation, the Contractor shall provide and run a sizing pig to check for anomalies in the form of buckles, dents, excessive out-of-roundness, and any other deformations. The sizing pig run shall be considered acceptable if the survey results indicate that there are no shape anomalies (e.g. dents, buckles, gouges, and internal obstruction) greater than 2 percent of the nominal pipe diameter, or excessive ovality greater than 5 percent of the nominal pipe diameter. For gauging purposes, dent locations are those defined above which occur within a span of five feet or less. Pipe ovality shall be measured as the percent difference between the maximum and minimum pipe diameters. For gauging purposes, ovality locations are those defined above which exceed a span of five feet.

#### 8.16 Ream and Pullback.

**Reaming:** Reaming operations shall be conducted to enlarge the pilot after acceptance of the pilot bore. The number and size of such reaming operations shall be conducted at the discretion of the Contractor.

**Pulling Loads:** The maximum allowable pull exerted on the HDD pipelines shall be measured continuously and limited to the maximum allowed by the pipe manufacturer so that the pipe or joints are not overstressed.

**Torsion and Stresses:** A swivel shall be used to connect the pipeline to the drill pipe to prevent torsional stresses from occurring in the pipe. The lead end of the pipe shall be closed during the pullback operation.

**Pipeline Support:** The pipelines shall be adequately supported by rollers and side booms and monitored during installation so as to prevent overstressing or buckling during the pullback operation. Such support/rollers shall be spaced at a maximum of 60 feet on centers, and the rollers to be comprised of a nonabrasive material arranged in a manner to provide support to the bottom and bottom quarter points of the pipeline allowing for free movement of the pipeline during pullback. Surface damage shall be repaired by the Contractor before pulling operations resume.

The contractor shall at all times handle the HDD pipe in a manner that does not over stress the pipe. Vertical and horizontal curves shall be limited so that wall stresses do not exceed 50% of yield stress for flexural bending of the pipe. If the pipe is buckled or otherwise damaged, the damaged section shall be removed and replaced by the Contractor at his expense. The Contractor shall take appropriate steps during pullback to ensure that the pipe will be installed without damage.

#### 8.17 Handling Drilling Fluids and Cuttings.

During the drilling, reaming, or pullback operations, the Contractor shall make adequate provisions for handling the drilling fluids, or cuttings at the entry and exit pits. These fluids must not be discharged into the waterway. When the Contractor's provisions for storage of the fluids or cuttings on site are exceeded, these materials shall be hauled away to a suitable legal disposal site. The Contractor shall conduct his directional drilling operation in such a manner that drilling fluids are not forced through the sub-bottom into the waterway. After completion of the directional drilling work, the entry and exit pit locations shall be restored to original conditions. The Contractor shall comply with all permit provisions.

Pits constructed at the entry or exit point area shall be so constructed to completely contain the drill fluid and prevent its escape to the waterway. The Contractor shall utilize drilling tools and procedures which will minimize the discharge of any drill fluids. The Contractor shall comply with all mitigation measures listed in the required permits and elsewhere in these Specifications.

To the extent practical, the Contractor shall maintain a closed loop drilling fluid system.

The Contractor shall minimize drilling fluid disposal quantities by utilizing a drilling fluid cleaning system which allows the returned fluids to be used.

As part of the installation plan specified herein before, the Contractor shall submit a drilling fluid plan which details types of drilling fluids, cleaning and recycling equipment, estimated flow rates, and procedures for minimizing drilling fluid escape.

#### 8.18 Drilling Operations.

The Contractor shall prepare a plan to be submitted for Engineer approval which describes the noise reduction program, solids control plant, pilot hole drilling procedure, the reaming operation, and the pullback procedure. All drilling operations shall be performed by supervisors and personnel experienced in horizontal directional drilling. All required support, including drilling tool suppliers, survey systems, mud cleaning, mud disposal, and other required support systems used during this operation shall be provided by the Contractor.

Drill pipe shall be API steel drill pipe, Range 2, Premium Class or higher, Grade S-135 in a diameter sufficient for the torque and longitudinal loads and fluid capacities required for the work. Only drill pipe inspected under API's Recommended Practice Specification

API RP 7G within 30 days prior to start and certified as double white band or better shall be used.

A smoothly drilled pilot hole shall follow the design centerline of the pipe profile and alignment described on the construction drawings.

Between the entry or exit point the Contractor shall provide and use a separate steering system employing a ground survey grid system, such as "TRU-TRACKER" or equal wherever possible. The exit point shall fall within a rectangle 5 feet wide and 10 feet long centered on the planned exit point.

During the entire operation, waste and leftover drilling fluids from the pits and cuttings shall be dewatered and disposed of in accordance with all permits and regulatory agencies requirements. Remaining water shall be cleaned by Contractor to meet permit requirements.

Technical criteria for bentonite shall be as given in API Spec. 13A, Specification of Oil Well Drilling Fluids Material for fresh water drilling fluids. Any modification to the basic drilling fluid involving additives must describe the type of material to be used and be included in Contractor's drilling plan presented to the Engineer. The Owner retains the right to sample and monitor the waste drilling mud, cuttings and water.

#### 8.19 Environmental Provisions.

The Horizontal Directional Drilling operation is to be operated in a manner to eliminate the discharge of water, drilling mud and cuttings to the adjacent creek or land areas involved during the construction process. The Contractor shall provide equipment and procedures to maximize the recirculation or reuse of drilling mud to minimize waste. All excavated pits used in the drilling operation shall be lined by Contractor with heavy duty plastic sheeting with sealed joints to prevent the immigration of drilling fluids and/or groundwater.

The Contractor shall visit the site and must be aware of all structures and site limitations at the directional drill crossing and provide the Engineer with a drilling plan outlining procedures to prevent drilling fluid from adversely affecting the surrounding area.

The general work areas on the entry and exit sides of the crossing shall be enclosed by a berm to contain unplanned spills or discharge.

Waste cuttings and drilling mud shall be processed through a solids control plant comprised as a minimum of sumps, pumps, tanks, desalter/desander, centrifuges, material handlers, and haulers all in a quantity sufficient to perform the cleaning/separating operation without interference with the drilling program. The cutting and excess drilling fluids shall be dewatered and dried by the Contractor to the extent necessary for disposal in offsite landfills. Water from the dewatering process shall be treated by the Contractor to meet permit requirements and disposed of locally. The cuttings and water for disposal

of locally. The cuttings and water for disposal are subject to being sampled and tested. The construction site and adjacent areas will be checked frequently for signs of unplanned leaks or seeps.

Equipment (graders, shovels, etc.) and materials (such as groundsheets, hay bales, booms, and absorbent pads) for cleanup and contingencies shall be provided in sufficient quantities by the Contractor and maintained at all sites for use in the event of inadvertent leaks, seeps or spills.

Waste drilling mud and cuttings shall be dewatered, dried, and stock piled such that it can be loaded by a front end loader, transferred to a truck and hauled offsite to a suitable legal disposal site. The maximum allowed water content of these solids is 50% of weight. Due to a limited storage space at the worksite, dewatering and disposal work shall be concurrent with drilling operations. Treatment of water shall satisfy regulatory agencies before it is discharged.

8.20 Payment. Payment shall be included in the payment for the work as shown on the plan sheets and to which it is subsidiary in the Bid Schedule. The estimated length of each directional bore is indicated on the plan sheets. This stated length shall be the footage used for the contractors payment calculation regardless of the actual length required for installation. Where applicable, the unit price for directional boring shall include labor and materials for installation of both the casing and carrier pipe.

## SECTION 9 - MASTER METER

9.0 Scope of Work. Under this item the Contractor shall provide all labor, tools, equipment, and materials to install the master meter assembly, concrete vault, connections to the supply line and any applicable appurtenances.

In the event the contractor obtains the engineer's approval on equipment other than that which is specified herein, the contractor shall, at his own expense, make any changes in structures, buildings or piping necessary to accommodate any amended equipment.

9.1 Concrete Vault and Appurtenances. The vault shall be design per latest ASTM specifications. Minimal structural design loading for underground concrete water and wastewater structures and ACI 318: Building code requirements for reinforced concrete. All concrete used in the construction of the vault shall have a minimum 28 day compressive strength of 4,500 psi. Reinforcing steel shall be ASTM A-6115, Grade 50 and used as required by design standards. Any joints shall be sealed with 1-inch conseal. The vault shall include a floor drain which extends to daylight. The contractor shall include up to 200 feet of 4-inch PVC drain line in the price of the vault. If the floor drain cannot be extended to daylight due the vault's location, the vault shall include gravel floor openings as shown on the plans which will be installed to facilitate proper drainage. Accordingly, the vault itself shall also be bedded with a sufficient layer (3 foot minimum) of acceptable gravel which will allow for adequate drainage.

The vault shall be equipped with a 72-inch x 72-inch aluminum access door installed directly above the meter(s) as shown on the drawings. The hatch shall be double leaf and shall have a 1/4 inch thick, mill finish, extruded aluminum channel frame, incorporating a continuous concrete anchor. A 1-1/2 inch drainage coupling shall be located in the front left corner of the channel frame. The entire frame must be supported by a full bed of concrete. The door panels shall be 1/4" aluminum diamond plate reinforced to withstand a live load of the H-20 Uniform live load with a maximum allowable deflection of 1/150 of the span, and shall not protrude into the channel frame when in the open position. Doors shall open to 90 degrees and automatically lock with a T-316 stainless steel hold open. For ease of operation, doors shall incorporate enclosed stainless steel compression spring assists. Doors shall close flush with the frame. Hinges and all fastening hardware shall be T-316 stainless steel. Unit shall lock with a T-316 stainless steel slam lock with removable key and have a non-corrosive handle. Unit shall carry a lifetime guarantee against defects in material and/or workmanship. The access door/ hatch assembly shall be manufactured by Halliday Products, Series H2C, or approved equal.

An all aluminum access ladder shall be provided. The ladder shall meet UL approval and OSHA qualifications under the Type I, Heavy Duty Specifications. The ladder shall have 1-1/4" diameter, tempered, serrated rungs with 3" by 1-1/8" full I-Beam side rails. The width of the ladder rungs within the side rails shall be 16-inch. The uppermost ends of the side rails shall be protected by plastic caps bolted into place. The complete access ladder shall be

bolted into place, at a minimum of two (2) points both top and bottom, so as to be easily removable to facilitate equipment maintenance.

9.2 Piping & Fittings. All piping and fittings shall be constructed of flanged ductile iron piping. Ductile iron pipe shall be designed in accordance with AWWA (ASA A21.50) and for pressures and conditions as stated in these specifications or called for on the plans. Ductile iron pipe shall conform to AWWA C-151 (ASA A21.51.). Pipe shall be cement lined in accordance with AWWA C104 (ASA A21.4) and all exposed pipe and fittings shall have a shop prime coat applied that is compatible with the subsequent field enamel paint coats. The class of pipe, wall thickness, and coatings required will be shown on the plans or the bid form for all ductile iron pipe installation.

Ductile iron flanged fittings with appropriate adapters shall be used. All such fittings shall be approved by the pipe manufacturer, and complete data sent to the engineer, including the manufacturer's approval, for review. Fittings shall comply with AWWA C-110 or C-111 and shall be manufactured for the size and pressure class of the line on which they are used. Vault piping shall extend at least ten feet from the meter vault in either direction before being connected back to the mainline piping.

Restrained flange adapters shall be used where indicated. They shall be made of ductile iron conforming to ASTM A536 and have flange bolt circles that are compatible with ANSI/AWWA C110/A21.10. Restraints for the flange adapter shall consist of a plurality of individual actuated gripping wedges to maximize restraint capability. Torque limiting actuating screws shall be used to insure proper initial set of gripping wedges. Adapters shall be capable of deflection during assembly, or permit lengths of pipe to be field cut, to allow a minimum of 0.6" gap between the end of the pipe and the mating flange without affecting the integrity of the seal. Adaptors shall have a minimum safety factor of 2:1. All restrained flange adapters shall be the SERIES 2100 MEGAFLANGE adapter, as produced by EBAA Iron, Inc., or approved equal.

9.3 Gate Valves. Valves shall be designed for a minimum water working pressure of not less than 200 pounds per square inch. Each valve shall be supplied with the fitting type that is required for the piping on which it will be installed. Gate valves shall have a clear water way equal to the nominal diameter, and shall be opened by turning to the left. Each valve shall be equipped with an operating wheel which shall have an arrow cast in the middle, indicating the direction of opening. Each valve shall have cast on the body, the maker's initials, pressure rating and the year in which the valve was manufactured.

Valves two inches and larger shall be iron body, resilient wedge gate valves and shall conform to standard specifications of the American Water Works Association. Prior to shipment from the factory each valve shall be tested at a hydraulic pressure of at least 300 pounds per square inch. The Contractor shall furnish the Engineer catalogs showing description, type and dimensions of valves he proposes to use subject to approval by the Engineer. The gate valve manufacturer shall be American AVK, or approved equal.



9.4 Check Valves. All check valves shall be iron body bronze mounted swing check valves. Valves shall be suitable for non-shock cold water service and comply with all applicable parts of ANSI/AWWA C508. Valves shall have a clear full opening waterway when disc is in fully open position. Valves shall be lever and weight operated with an adjustable position weight and lever arm attached to disc assembly for variable closure force. The weight & lever assembly should be available for use on either side of the valve. All operating parts should be accessible through top opening, ensuring trouble free maintenance. Valves shall be equipped with a “D” shaped cover equipped with a flow direction indicator insuring that it cannot be incorrectly assembled and cause flow direction error.

The valve body, cover, and weights shall all be composed of ASTM 126 Grade B cast iron. The hinge pin shall be supported by heavy bronze bearings and be pressure sealed with O-rings. Each valve shall be equipped with an ASTM A307 steel test plug. Valves shall be equipped with an ASTM 126 Grade B cast iron disk and ASTM B584 Alloy C84400 cast bronze disk facing. The disk facing shall be permanently pressing into disc. Valves shall employ an ASTM A267 Type 303 stainless steel hinge pin and an ASTM B584 Alloy C84400 cast bronze clapper arm. All gaskets and o-rings shall be ASTM D2000 rubber. The valve shall be coated in water reducible alkyd enamel primer paint.

Valves shall be designed for a minimum water working pressure of not less than 175 pounds per square inch. Prior to shipment from the factory each valve shall be tested at a hydraulic pressure of at least 350 pounds per square inch. Each valve shall have cast on the body, the maker’s initials, pressure rating and the year in which the valve was manufactured. All check valves shall be manufactured by the Val-Matic Valve and Manufacturing Corporation, Model 7802LW, or approved equal.

9.5 Master Meter. Meters shall be the compound type furnished under these specifications and shall conform to AWWA C702 latest revision and the minimum specifications herein. Meters shall combine a main line meter of the Class II turbine type for measuring high rates of flow with a bypass meter of the positive displacement type for measuring low rates of flow. Meters shall have an automatic valve mechanism which diverts low rates of flow through the bypass meter. They shall be designed for use with potable water below 120 degrees F.

Minimum accuracy through changeover shall be no less than 97% of actual throughput.

The body main case shall be of bronze composition and be capable of withstanding pressure of one hundred and fifty (150) psi. Outer cases shall permit separate removal of measuring chambers. Meters shall be designed for easy removal of all interior parts without disturbing the connections to the pipeline.

The register housing shall be constructed of bronze and provide full protection of the register assembly. Register assemblies shall be secured to the main case in a tamper resistant fashion to prohibit unauthorized removal. Seal screws, tamperproof screws, or locking devices are acceptable.

Measuring chambers and cages shall be bronze. They shall be easily detached and removed from the case. Rotor spindles shall be of tungsten carbide steel supported by PTFE or graphite radial bearings. Replaceable thrust bearings shall be provided. The main line and bypass chambers shall be interchangeable in all meters of the same size and model. Intermediate gear trains shall be made of non-corrosive materials. The bypass chamber assemblies shall be positive displacement type and shall not be cast as part of the outer case.

Meters shall be provided with internal strainers made of stainless steel.

9.6 Shop Drawings. Shop drawing submittals shall be bound and in six (6) copies. The submittals shall contain a minimum of four (4) full size vault drawings, 24" by 36" in size. The submittal booklets shall be complete with data sheets covering all individual components that make up the master meter assembly, precast concrete vault, piping and appurtenances.

9.7 General. The contractor is hereby notified that responsibility for the complete and satisfactory operation or function of all equipment and material is definitely a part of this contract, regardless of the manufacturer's guarantee on any item furnished by him. It is the contractor's responsibility to place all equipment in operation, check all fittings for tightness, and see that proper operating and maintenance instructions are prepared and followed.

9.8 Payment. The unit bid price shall constitute full compensation for furnishing and installation of a complete master meter vault including all metering equipment, valves, piping, vault, connections to the mainline and any and all other applicable appurtenances.

## **SECTION 10 - METER SETTING & METER RECONNECTION**

10.0 Work Included. Under this item the Contractor shall provide all labor, tools, equipment, and materials to install the meter settings, meter reconnects, and service tubing as shown on the drawings and as directed by the Engineer.

10.1 Materials. The meter settings shall consist of a saddle, corporation stop, service tubing, coppersetter, meter, meter box, and appurtenances. The corporation stops shall be F1001-3- G as manufactured by Ford with a pack joint for polyethylene pipe. Pack joint inlet couplings shall be C14-33-Q as manufactured by Ford for polyethylene pipe. Saddles shall be equal to the Ford S70 Series with a hinged pin for PVC and 202 Series for ductile iron. The coppersetter shall be equal to the Ford 70 Series Coppersetter VHH72-7W-11-33 with a seven inch rise for a 5/8 inch by 3/4 inch meter and complete with an inlet key valve and outlet single check valve. A tandem coppersetter to accommodate a pressure reducer and meter shall be used where specified. The pressure reducing valve shall be Mueller, Model No. H-9300 No. 3, or approved equal with a bronze strainer. Each regulator is to have an adjustable pressure range of 60-125 psi and to be set at 70 psi.

The meters shall be a displacement type magnetic drive cold water meter complying with ANSI/AWWA Standard C700, latest revision. They shall be Neptune T-10 as manufactured by Neptune Technology Group, or approved equal. The size of the meter shall be 5/8 inch by 3/4 inch or as shown otherwise on the Plans. The meter shall have a straight reading dial in U. S. gallons and must have a working pressure of 150 psi. Serial numbers shall be stamped on both the lid and meter body.

The meter pits shall be white in color. Meter pits shall have a smooth interior and annular exterior corrugations. Meter pits shall be notched at 0 and 180 degrees at the base to accommodate inlet and outlet pipes. Meter pits shall be 18-inches in diameter and 24-inches deep as manufactured by Hancor, Inc., or approved equal. Meter box settings shall be prefabricated with the copper-setters and fittings as specified ready for connection at the inlet and outlet ends. Meter box settings shall be that as manufactured by Water Works Supplies, Inc., Richmond, Kentucky, or approved equal. Meter boxes shall include a two piece flat cast iron lid and frame, RUSSCO LC-219 as manufactured by Sigma Corporation, or approved equal.

Service tubing shall be 3/4 inch polyethylene or type K copper tubing with a minimum pressure rating of 200 PSI. One-inch and two-inch service lines shall be PVC, PE, or K copper with a minimum pressure rating of 200 PSI.

Insert stiffeners shall be used when using polyethylene service tubing and shall be Series 50 or 70 as manufactured by Ford Meter Box Company, Inc., or approved equal.

10.2 Installation. Meters shall be set as shown on the detail drawings with backfill neatly compacted in place. The top of the meter box shall be set 1/2 inch above grade. The meter shall be at least 18 inches below the ground surface.

Meter reconnects shall consist of reestablishing service to the customer after the new meter has been installed. The new meter shall be installed adjacent to the existing meter as directed by the Owner or Engineer and new service line shall be installed to connect to the existing service line.

10.3 Payment. The unit price bid shall constitute full compensation for furnishing and installing the meter setting, or meter reconnect, with the above described appurtenances. Service tubing shall be paid by the linear foot. Installation of the service tubing through or beneath paved surfaces shall be considered as an incidental cost for the installation of the service tubing and there shall be no compensation for pavement replacement.

## SECTION 11 - STONE AGGREGATE

11.0 Work Included. Under this item the Contractor shall provide all labor, tools, equipment, and materials to install the stone aggregate as shown on the drawings and as directed.

11.1 Materials. The stone aggregate shall be dense grade stone #9 or as directed by the Engineer or as otherwise shown. The stone shall be free of dirt, sand, trash, debris, and free water.

11.2 Installation. The Contractor shall install the aggregate at the locations as shown on the drawings which includes any trenches where the water main or service line disturbs any roadway. This also includes any areas where casing pipe is installed in open trenches or the locations where a bore or receiving pit was excavated. Stone shall be backfilled to top of grade where any trenches disturb paved areas. The Engineer may limit the amount of stone to be placed upon determination that the application is excessive.

11.3 Payment. Stone aggregate shall be incidental to the installation of the water mains, and other appurtenances. There shall be no separate pay item for stone aggregate.

## SECTION 12- PAVEMENT REPLACEMENT

12.0 Work Included. Under this item the Contractor shall provide all labor, tools, equipment, and materials to install concrete and bituminous pavement replacement where pavement is disturbed during construction.

12.1 Materials. Pavement replacement for bituminous surfaces shall consist of a prime coat of emulsified asphalt, Class 1 Bituminous Binder, and Class 1 Bituminous Asphalt as specified by the Kentucky Bureau of Highways latest specifications.

Pavement replacement for concrete surfaces shall consist of Class A concrete including reinforcement consisting of No. 4 reinforcing bars placed on twelve inch centers in both directions or otherwise as directed by the engineer.

Support backfill shall be No. 9 stone, dense grade aggregate or flowable fill as per the detailed drawings and specifications herein.

12.2 Installation. Immediately upon placement of the water lines and appurtenances the disturbed traveled way shall be backfilled with No. 9 stone or dense grade aggregate extending from the top of the pipe up to the traveled way surface. The area of disturbance will be repaved once settlement has subsided granted that water line installation, testing and all other cleanup has been completed as dictated by the Engineer.

In preparation for the installation of pavement replacement, the top twelve inches of stone backfill shall be compacted with a mechanical tamping machine. The use of rubber tire or track driven equipment such as backhoes or dozers shall not satisfy the requirement for final compaction.

12.2.1 State Highway Pavement Replacement. Where bituminous pavement replacement is required due to a disturbance of a Kentucky State Highway, the trench shall be backfilled with #9 stone up to 9-inches below the top of the existing pavement. The stone shall be properly compacted and capped with a 6-inch layer of KYDOT approved flowable fill. A 3-inch layer of temporary asphalt pavement shall then be installed flush with the level of the existing pavement. Upon completion of the water line installation, testing and all other cleanup, the Contractor shall mill the temporary asphalt and the existing asphalt in preparation for final pavement replacement. The total width of final pavement replacement shall be a minimum of three feet from the each edge of temporary pavement. Following milling of existing and temporary pavement, the Contractor shall replace void with an approved prime coat of emulsified asphalt applied at a rate of 0.35 gallons per square yard and a 3-inch finish coat asphalt pavement. The pavement shall be rolled to a smooth finish and provide a gentle transition to the existing pavement. A detail illustration regarding the methods described has been included in the standard drawings.

12.2.2 Full Width Pavement Replacement. Where full width bituminous pavement replacement is required, the pipe trench shall be backfilled as described herein. Upon completion of the water line installation, testing and all other cleanup, the Contractor shall install full width pavement replacement in all areas indicated on the plans. In areas where existing curbing is in place, the contractor shall mill the existing paved surface before new asphalt pavement overlay is installed. In areas where curbing is not in place, the contractor shall install asphalt overlay directly atop existing pavement. An approved prime coat of emulsified asphalt applied at a rate of 0.35 gallons per square yard shall be applied in preparation of for installation of the asphalt overlay. The finish coat of asphalt pavement shall be a minimum of 2-inches across the entire roadway cross-section. The pavement shall be rolled to a smooth finish and provide a gentle transition to all existing pavement.

12.2.3 Incidental Pavement Replacement. Unless specifically noted otherwise, pavement replacement shall be incidental to the cost of installing the water line. This includes all driveways, parking lots, city street crossings, and all other locations where state highway or full-width pavement replacement isn't specifically noted on the plans. Where incidental pavement replacement, including partial pavement replacement, is required, the pipe trench shall be backfilled as described herein. Upon completion of the water line installation, testing and cleanup, the Contractor shall install pavement replacement in all areas where the existing pavement has been disturbed. The total width of pavement replacement shall extend a minimum of three feet outward from each edge of the pipeline trench. Partial pavement replacement will be required when pavement is disturbed along the edge of a paved area. In partial pavement replacement situations the replacement pavement shall extend into the paved area a minimum three feet and toward the pipeline trench to a point equal to that of the existing pavement. In both cases, the transition from the replacement pavement and the existing pavement shall be saw cut with a neat and clean appearance. All existing pavement material within the total width of the pavement replacement area shall be removed prior to installation of new pavement.

Where concrete pavement replacement is required, reinforcing steel shall be placed within three inches of the surface of the existing concrete and it shall be supported with CMU support pieces. The area to be repaved shall be formed to coincide with the adjoining concrete surfaces and the edges of the repaved area shall be smooth and uniform. The concrete shall be placed on top of the compacted gravel at a minimum depth of six inches. The surface finish shall match that of the adjoining concrete. The transition to all adjoining pavement shall be smooth and uniform such that ponding will not occur.

Where bituminous pavement replacement is required the base shall be prepared with a prime coat of emulsified asphalt applied at a rate of 0.35 gallons per square yard. A 2-inch thick layer of bituminous binder shall then be placed above the prime coat. The final coat of bituminous concrete shall then be placed at a depth of 1 1/2 inches. The final coat of pavement shall be rolled to a smooth finish and provide gentle transitions to all existing pavement.

A detail illustration regarding the methods described has been included in the standard drawings.

12.3 Final Acceptance. All pavement replacement shall be inspected prior to the final warranty period expiration. Any pavement replacement found to be deteriorated or not uniform due to settlement of the disturbed subsurface shall be repaired before the work is recommended for final acceptance. It is anticipated that this inspection shall take place on or about the eleventh month of the one year warranty period. The warranty period for all pavement replacement shall not commence until the final warranty period for the project in its entirety is initiated.

12.4 Payment. The unit price bid shall constitute full compensation for furnishing and installing pavement replacement as it is outlined in the bid schedule and specifications herein. Unit measurement of all pavement replacement not considered incidental shall be in linear feet, with the measurement being taken parallel to the corresponding pipeline trench

All disturbed pavement which is not specifically indicated on the plans as receiving state highway or full-width pavement replacement shall be considered incidental to the cost of installing the water lines and shall receive no additional payment.



## SECTION 13 - EXPLORATION

13.0 Work Included. Under this item the Contractor shall provide all labor, tools, equipment, and materials to explore for existing water lines and appurtenances that are not as shown on the Drawings.

13.1 Description of Work. In those locations where the existing water lines and appurtenances are not in the locations as shown on the Drawings the Contractor shall explore for the utility at the direction of the Engineer. The Contractor shall utilize all equipment necessary to search for the water line or appurtenance and any disturbance of other utilities shall be the responsibility of the Contractor. Any other work or disturbance created by the Contractor as a result of the exploration shall be incidental to this item.

In locations where new water lines are to be installed parallel to existing lines, the contractor shall locate existing water lines in 100 foot intervals. This particular requirement shall be considered **incidental** to the installation of the water lines and it **shall not be included** in the calculation of this pay item.

13.2 Payment. The unit price bid shall constitute full compensation for the exploration of the water lines and appurtenances. The Resident Engineer shall approve the Contractor to initiate and terminate the exploration and the Resident Engineer shall monitor the amount of time in 15 minute increments.

## SECTION 14 – EROSION CONTROL

14.0 Scope of Work. It is intent of this specification to define the acceptable methods and materials for preparing storm water Best Management Plan and Notice of Intent, installing all applicable erosion control measures in accordance with Best Management Practice Plan and as specified and maintain erosion control measures as needed.

### 14.1 Installation Plan.

14.1.1 Minimize Disturbance and Buffer Strips Only areas necessary for construction shall be disturbed, cleared or graded. Vehicles and construction equipment shall be excluded from these areas so to preserve all natural vegetation. All areas that are disturbed during construction, including slopes, shall be protected during clearing and construction in accordance with the approved erosion and sediment control plan until they are permanently stabilized.

If top soil is needed for the re-establishment of vegetation, it shall be piled until the necessary amount needed to finish grading of all exposed areas. Areas that are to be filled shall be cleared, grubbed to remove trees, vegetation, roots and other objectionable material, and stripped of topsoil.

Areas to receive topsoil shall be scarified to a minimum depth of three inches prior to the placement of topsoil. All fills shall be compacted as required by building standards to reduce erosion, slippage, settlement, subsidence and other related problems. Fill intended to support buildings, structures, conduits, etc., shall be compacted in accordance with local requirements or codes.

14.1.2 Land Grading for Minimizing Erosion. Only areas necessary for construction shall be disturbed, cleared or graded. Vehicles and construction equipment shall be excluded from these areas so to preserve all natural vegetation. All areas that are disturbed during construction, including slopes, shall be protected during clearing and construction in accordance with the approved erosion and sediment control plan until they are permanently stabilized. All sediment control measures shall be constructed and maintained in accordance with the approved erosion and sediment control plan and according to the standards and specifications for the appropriate erosion control practices.

If top soil is needed for the re-establishment of vegetation, it shall be piled until the necessary amount needed to finish grading of all exposed areas. Areas to receive topsoil shall be scarified to a minimum depth of three inches prior to the placement of topsoil.

The outer face of the fill slope should always be allowed to stay loose, not rolled, compacted, or bladed smooth. A bulldozer may run up and down the fill slope so the dozer treads create groves perpendicular to the slope. Use slope breaks, such as diversions, benches, or contour furrows as appropriate, to reduce the length of cut-and-fill slopes to limit sheet and rill erosion and prevent gulying. The finish cut-and-fill slopes,

which are to be vegetated with grass and legumes, should not be steeper than two horizontal to one vertical.

Roughen the surface of all slopes during the construction operation to retain water, increase infiltration, and facilitate vegetation establishment.

Seeps or springs encountered during construction shall be handled in accordance with approved methods.

Stabilize all graded areas with vegetation, crushed stone, rip-rap, or other ground cover as soon as grading is completed or if work is interrupted for 21 working days or more.

Use mulch to stabilize areas temporarily where final grading must be delayed. Stockpiles, borrow areas and spoil areas shall be shown on the plans and shall be stabilized to prevent erosion and sedimentation.

#### 14.1.3 Erosion Control Blankets and Matting.

A. Site Preparation. Proper Site Preparation is essential to ensure complete contact of the protection matting with the soil. Grade and shape area of installation. Remove all rocks, clods, vegetation or other obstructions so that the installed blankets, or mats will have direct contact with the soil. Prepare seedbed by loosening two to three inches of topsoil above final grade. Incorporate amendments, such as lime and fertilizer, into soil according to soil test and the seeding plan.

B. Seeding. Seed area before blanket installation for erosion control and re-vegetation or seed after mat installation for turf reinforcement. When seeding prior to blanket installation, all check slots and other areas disturbed during installation must be re-seeded. Where soil filling is specified, seed the matting and the entire disturbed area after installation and prior to filling the mat with soil.

C. Anchoring. U-shaped wire staples, metal geotextile stake pins or triangular wooden stakes can be used to anchor mats to the ground surface. Wire staples should be a minimum of 11 gauge. Metal stake pins should be 3/16 inch diameter steel with a 1 ½ inch steel washer at the head of the pin. Wire staples and metal stake should be driven flush to the soil surface. Two inches of wood staking should remain above the soil surface. All anchors should be six to eight inches long and have sufficient ground penetration to resist pullout. Longer anchors may be required for loose soils.

D. Installation on Slopes. Begin at the top of the slope and anchor its blanket in a six inches deep by six inches wide trench. Backfill trench and tamp earth firmly. Unroll blanket down slope in the direction of the water flow. Lay blankets loosely and maintain direct contact with the soil. Do not stretch. The edges of adjacent parallel rolls must be overlapped two to three inches and be stapled every three feet. When blankets must be spliced, place blankets end over end (shingle style) with six inches overlap. Staple through overlapped area, approximately twelve inches apart.

Blankets shall be stapled sufficiently to anchor blanket and maintain contact with the soil. Staples shall be placed down the center and staggered with the staples placed along the edges Steep slopes, 1:1 to 2:1, require 2 staples per square yard. Moderate slopes, 2:1 to 3:1, require 1 ½ staples per square yard (1 staple three feet on center). Gentle slopes require 1 staple per square yard.

E. Installation in Channels. Dig initial anchor trench twelve inches deep and six inches wide across the channel at the lower end of the project area. Excavate intermittent check slots, six inches deep and six inches wide across the channel at twenty five to thirty five foot intervals along the channel. Cut longitudinal channel anchor slots four inches deep and four inches wide along each side of the installation to bury edges of matting, whenever possible extend matting two to three inches above the crest of channel side slopes.

Beginning at the downstream end and in the center of the channel, place the initial end of the first roll in the anchor trench and secure with fastening devices at one foot intervals. Note: matting will initially be upside down in anchor trench.

In same manner, position adjacent rolls in anchor trench, overlapping the preceding roll a minimum of three inches. Secure these initial ends of the mats with anchors at one foot intervals, backfill and compact soil. Unroll center strip of matting upstream. Stop at next check slot or terminal anchor trench. Unroll adjacent mats upstream in similar fashion, maintaining three inch overlap.

Fold and secure all rolls of matting snugly into all transverse check slots. Lay mat in the bottom of the slot the fold back against itself. Anchor through both layers of mat at one foot intervals the backfill and compact soil. Continue rolling all mat widths upstream to the next check slot or terminal anchor trench. Alternate method for non-critical installations: place two rows of anchors on six inch centers at twenty five to thirty foot intervals in lieu of excavated check slots.

Shingle-lap spliced ends by a minimum of one foot with upstream mat on top to prevent uplifting by water or begin new rolls in a check slot. Anchor overlapped area by placing two rows of anchors, one foot apart on one foot intervals.

Place edges of outside mats in previously excavated longitudinal slots, anchor using prescribed staple pattern, backfill and compact soil.

Anchor, fill and compact upstream end of map in a twelve inch by six inch terminal trench. Secure mat to ground surface using U-shaped wire staples geotextile pins or wooden stakes. Seed and fill turf reinforcement matting with soil, if specified. After seeding, spread and lightly rake ½ inch to ¾ inch of fine topsoil into the mat apertures to completely fill mat thickness. Use backside of rake or other flat implement.

Spread topsoil using lightweight loader, backhoe, or other power equipment. Avoid sharp turns with equipment. Do not drive tracked or heavy equipment over mat. Avoid any

traffic over matting if loose or wet soil conditions exist. Use shovels, rakes or brooms for fine grading and touch up. Smooth out soil filling just exposing top netting of matrix.

F. Inspection and Maintenance. All blanket and mats should be inspected periodically following installation. Inspect installation after significant rainstorms to check for erosion and undermining. Any failure should be repaired immediately. If washout or breakage occurs, reinstall the material after repairing the damage to the slope or drainage way.

14.1.4 Topsoiling. Determine whether the quality and quantity of available topsoil justifies selective handling. Soils of the textural class of loam, sandy loam, and silt loam are best; sandy clay loam, silty clay loam, clay loam, and loamy sand are fair. Do not use heavy clay and organic soils such as peat or muck as topsoil.

Strip topsoil only from those areas that will be disturbed by excavation, filling, road building, or compaction by equipment. Determine depth of stripping by taking soil cores at several locations within each area to be stripped. Put sediment basins, diversions, and other controls into place before stripping. Select stockpile location to avoid slopes, natural drainage ways, and traffic routes. Use sediment fences or other barriers where necessary to retain sediment.

Protect topsoil stockpiles by temporarily seeding and/or mulching as soon as possible to assure the stored material is not exposed and allowed to erode.

If stockpiles will not be used within twelve months they must be stabilized with permanent vegetation to control erosion and weed growth.

Before spreading topsoil, establish erosion and sedimentation control practices such as diversions, berms, dikes, waterways, and sediment basins.

Where the pH of the existing subsoils 6.0 or less, or the soil is composed of heavy clays, incorporate agricultural limestone in amounts recommended by soil tests or specified for the seeding mixture to be used. Incorporate lime to a depth of at least two inches by disking.

Immediately prior to spreading the topsoil, loosen the subgrade by disking or scarifying to a depth of at least three inches, to ensure bonding of the topsoil and subsoil. If no amendments have been incorporated, loosen the soil to a depth of at least six inches before spreading topsoil.

Uniformly distribute topsoil to a minimum compacted depth of two inches on 3:1 slopes and four inches on flatter slopes.

Do not spread topsoil while it is frozen or muddy or when the subgrade is wet or frozen.

Correct any irregularities in the surface that result from topsoiling or other operations to prevent the formation of depressions or water pockets.

Compact the topsoil enough to ensure good contact with the underlying soil, but avoid excessive compaction, as it increases runoff and inhibits seed germination. Light packing with a roller is recommended where high maintenance turf is to be established.

14.1.5 Temporary Gravel Construction Entrance. The aggregate size for construction of the pad shall be two to three inch stone. Place the gravel to the specific grade and dimensions shown on the plans, and smooth it.

The thickness of the pad shall not be less than six inches. Use geotextile fabrics, if necessary, to improve stability of the foundation in locations subject to seepage or high water table.

The width of the pad shall not be less than the full width of all points of ingress or egress and in any case shall not be less than twelve feet wide.

The length of the pad shall be as required, but not less than fifty feet.

Locate construction entrances and exits to limit sediment leaving the site and to provide for maximum utility by all construction vehicles. Avoid entrances which have steep grades and entrances at curves in public roads.

The entrance shall be maintained in a condition that will prevent tracking or flowing of sediment onto public rights of way. This may require periodic top dressing with additional stone as conditions demand, and repair and/or clean out of any measures used to trap sediment.

All sediment spilled, dropped, washed or tracked onto public rights-of-way shall be removed immediately. Provide drainage to carry water to a sediment trap or other suitable outlet.

When necessary, wheels shall be cleaned to remove sediment prior to entrance onto public rights-of-way. When washing is required, it shall be done on an area stabilized with crushed stone that drains into an approved sediment trap or sediment basin.

All sediment shall be prevented from entering any storm drain, ditch or watercourse through use of sand bags, gravel, straw bales, or other approved methods.

Maintain the gravel pad in a condition to prevent mud or sediment from leaving the construction site. Replace gravel material when surface voids are visible. After each rainfall, inspect any structure used to trap sediment and clean it out as necessary. Immediately remove all objectionable material spilled, washed, or tracked onto public roadways. Remove all sediment deposited on paved roadways within 24 hours.

14.1.6 Rock, Log and Straw Bale Check Dams. The maximum spacing between the dams shall be such that the toe of the upstream dam is at the same elevation as the top of the downstream dam.

Rock dams shall be constructed of two to fifteen inch rock. Keep the center rock (spill way) section at least six inches lower than the outer wall edges. Extend the abutments eighteen inches into the channel bank.

Straw bales shall be placed in a single row, lengthwise, oriented perpendicular to the flow, with the ends of adjacent bales tightly abutting one another. Straw bales shall be extended such that the bottoms of the end bales are higher in elevation than the top of the middle bale spillway to ensure that sediment-laden runoff will flow over the barrier, and not around it.

Each straw bale shall be embedded in the soil a minimum of four inches. Use straw, rocks, or filter fabric to fill any gaps between the bales and tamp the backfill material to prevent erosion under or around the bales. If the straw bales are wire bound, they should be oriented so the bindings are around the sides rather than along the top and bottom. Wire bindings that are placed in contact with the soil soon disintegrate and may allow the bale to fall apart.

Construct an energy dissipater to reduce downstream erosion.

The check dams shall be inspected for damage periodically during the winter and after each significant storm (one inch in 24 hours). Prompt repairs shall be made to ensure that the dam is functioning properly. Any erosion caused by flows around edges of the dam or under the structure shall be corrected immediately.

Remove sediment from behind the dams when they become sixty percent full, or as needed. The removed sediment shall be deposited in an area that will not contribute sediment off site and can be permanently stabilized. Remove check dams and stakes when stabilization is complete.

14.1.7 Straw Bale Dike. The bales shall be placed on the slope contour at the base of the slope or around the perimeter of the construction site. If the dike is constructed at the toe of a slope, place it five to six feet away from the slope if possible.

Do not construct the dike more than one bale high. Bales shall be placed in a row with the ends tightly abutting. Each bale shall be embedded in the soil a minimum of four inches. Use straw, rocks, or filter fabric to fill any gaps between the bales and tamp the backfill material to prevent erosion under or around the bales.

If the bales are wire bound, they should be oriented so the bindings are around the sides rather than along the top and bottom. Wire bindings that are placed in contact with the soil soon disintegrate and may allow the bale to fall apart.

The bales shall be securely anchored in place by two wooden stakes or rebar driven through the bales. The first stake in each bale shall be driven toward the previously laid bale to force the bales tightly together. Drive the stakes at least eighteen inches into the ground.

The straw bale dikes shall be inspected weekly and after each significant storm (one inch in 24 hours). Repairs and/or replacement shall be made promptly. Remove the straw bales when the upslope areas have been permanently stabilized. Remove sediment behind barrier when it reaches a depth of 6 inches.

14.1.8 Silt Fence. The height of a silt fence shall not exceed thirty six inches. Storage height shall never exceed eighteen inches. The fence line shall follow the contour as closely as possible. If possible, the filter fabric shall be cut from a continuous roll to avoid the use of joints. When joints are necessary, filter cloth shall be spliced only at a support post, with a maximum six inch overlap and both ends securely fastened to the post.

Posts shall be spaced a maximum of ten feet apart and driven securely into the ground (minimum of twelve inches). When extra strength fabric is used without the wire support fence, post spacing shall not exceed six feet. Turn the ends of the fence uphill.

A trench shall be excavated approximately four inches wide and six inches deep along the line of posts and upslope from the barrier.

When standard-strength filter fabric is used, a wire mesh support fence shall be fastened securely to the upslope side of the posts using heavy duty wire staples at least one inch long, tie wires or hog rings. The wire shall extend into the trench a minimum of two inches and shall not extend more than thirty six inches above the original ground surface.

The standard-strength filter fabric shall be stapled or wired to the fence, and six inches of the fabric shall extend into the trench. The fabric shall not extend more than thirty six inches above the original ground surface. Filter fabric shall not be stapled to existing trees.

When extra-strength filter fabric and closer post spacing are used, the wire mesh support fence may be eliminated. In such a case, the filter fabric is stapled or wired directly to the posts.

The trench shall be backfilled and the soil compacted over the toe of the filter fabric.

Silt fences placed at the toe of a slope shall be at least six feet from the toe in order to increase ponding volume.

Silt fences shall be removed when they have served their useful purpose, but not before the upslope area has been permanently stabilized, and any sediment stored behind the silt fence has been removed.



Silt fences and filter barriers shall be inspected weekly and after each significant storm (one inch in 24 hours). Any required repairs shall be made immediately. Sediment shall be removed when it reaches 1/3 height of the fence or nine inches maximum.

#### 14.1.9 Drop Inlet Sediment Barriers.

A. Straw Bale Barrier. Excavate a four inch deep trench around the inlet and make the trench as wide as a straw bale in order to embed the bales properly. Orient the straw bales with the bindings around the sides of the bales so the wire does not come in contact with the soil.

Place bales lengthwise around the inlet and press the ends of adjacent bales together. The bales may be loosely joined if more gravel is utilized.

Drive two by two inch stakes through each bale to anchor the bale securely in place.

Utilize ¾ inch to two inch gravel to fill the void spaces between the bales if necessary to dewater the ponded area more rapidly.

B. Silt Fence Sediment Barrier. Support posts for a silt fence must be steel fence posts or two inch by four inch wood, length three feet minimum, spacing three feet maximum, with a top frame support recommended. Excavate a trench four inches wide and six inches deep and bury the bottom of the silt fence in the trench. Backfill the trench with gravel or soil. Compact backfill well. The height of the silt fence shall be a maximum of eighteen inches measured from the top of the inlet.

Inspect the barrier after each rain and promptly make repairs as needed. Sediment shall be removed after each significant storm (one inch in 24 hours) to provide adequate storage volume for the next rain. The removed sediment shall be deposited in an area that will not contribute sediment off-site and can be permanently stabilized. For gravel filters, if the gravel becomes clogged with sediment it must be carefully removed from the inlet and either cleaned or replaced.

14.1.10 Curb Inlet Sediment Barriers. Place the barriers on gently sloping streets where water can pond. The barriers must allow for overflow from a severe storm event. Slope runoff shall be allowed to flow over blocks and gravel and not be bypassed over the curb. A spillway shall be constructed with the sandbag structures to allow overflow.

The sandbags should be of woven-type geotextile fabric since burlap bags deteriorate rapidly. Sandbags shall be filled with ¾ inch drain rock or ¼ inch pea gravel.

The sandbag shall be placed in a curved row from the top of the curb at least three feet into the street. The row should be curved at the ends, pointing uphill.

Several layers of bags should be overlapped and packed tightly. Leave a one-sandbag gap in the top row to act as a spillway.

Inspect and clean the barrier after each significant storm (one inch in 24 hours) and remove sediment from behind the structure after every storm. Any sediment and gravel shall be immediately removed from the traveled ways of roads. The removed sediment shall be placed where it cannot enter a storm drain, stream, or be transported off site.