

STANDARD BID & SPECIFICATIONS PACKAGE

Root Control 2022

Bid # 23-B0010



Prepared for

THE CITY OF MYRTLE BEACH
HORRY COUNTY, SOUTH CAROLINA

August 2022

Procurement Office
3231 Mr. Joe White Avenue
Myrtle Beach, SC 29577
Phone: (843) 918-2170

The City of Myrtle Beach will not be responsible for any errors, omissions, or misrepresentations regarding any plans or solicitation documents that are obtained from any source other than the City of Myrtle Beach. It is the Contractor's sole responsibility to verify the authenticity of all documents associated with this project. The Contractor will be liable for any losses, damages, costs, and/or expenses incurred by operating from plans that are not directly obtained from the City of Myrtle Beach.

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DOCUMENT 001116 - INVITATION TO BID

1.1 PROJECT INFORMATION

- A. Notice to Bidders: Qualified bidders are invited to submit bids for Project as described in this Document according to the Instructions to Bidders.
- B. Project Identification: Root Control 2022
 - 1. Project Location: Various locations within the City of Myrtle Beach:
- C. Owner: CITY OF MYRTLE BEACH
 - Post Office Box 2468
 - Myrtle Beach, South Carolina 29578
 - 1. Owner's Representative: City of Myrtle Beach Public Works Department
 - Infrastructure Division
 - Post Office Box 2468
 - Myrtle Beach, South Carolina 29578
- D. Project Description:

This Project consists of applying an herbicide root control product within our sanitary sewer lines to eliminate any root growth present and to control any future re-growth within the sewer system. The City is looking to do a Year Contract with the possibility of four (4) One-year renewal contracts. The Contractor will be allowed the opportunity to adjust the Bid Tab on each 1-year renewal up to 5%. The City of Myrtle Beach will provide location maps once the project is awarded. The City of Myrtle Beach will assist in locating and uncovering manholes that cannot be located on the list and will assist in the removal of any excess sewage or grease located in manholes. The Contractor is responsible for removing/replacing fencing and/or anything obstructing access to manholes. The contractor will also be responsible for replacing or repairing any damage to landscaping or hardscape.
- E. Construction Contract: Bids will be received for the following Work:
 - 1. General Contract (all trades).

1.2 BID SUBMITTAL AND OPENING

- A. Owner will receive sealed bids until the bid time and date at the location indicated below. Owner will consider bids prepared in compliance with the Instructions to Bidders issued by Owner, and delivered as follows:
 - 1. Bid Date: Tuesday, November 15, 2022
 - 2. Bid Time: 2:00 p.m., local time.
 - 3. Location: The City of Myrtle Beach Procurement Office located at
3231 Mr. Joe White Ave, Myrtle Beach, South Carolina 29577

4. Bids will be thereafter publicly opened and read aloud.

1.3 BID SECURITY

- A. Bid security shall be submitted with each bid in the amount of 5 percent of the bid amount. No bids may be withdrawn for a period of 30 days after the opening of the bid. The owner reserves the right to reject any and all bids and to waive informalities and irregularities.

1.4 PREBID CONFERENCE

- A. A pre-bid conference for all bidders will be held at Public Works Administrative Office located at 3210 Mr. Joe White Avenue, Myrtle Beach, South Carolina 29577 on Tuesday October 25, 2022, at 10:00 AM local time. Prospective bidders are required to attend if attendance is mandatory based on Section 002513 PRE-BID MEETINGS.

1.5 DOCUMENTS

- A. Electronic Procurement and Contracting Documents: Obtain after October 18, 2022 by contacting the City of Myrtle Beach Procurement Office at (843) 918-2172. Documents will be provided to prime bidders only; only complete sets of documents will be issued.

1. Deposit: [\$50.00] Fifty Dollars

1.6

1.7 TIME OF COMPLETION AND LIQUIDATED DAMAGES

- A. Bidders shall begin the Work on receipt of the Notice to Proceed and shall complete the Work within the Contract Time of forty-five(45) days. Work is subject to \$500 liquidated damages.

1.8 BIDDER'S QUALIFICATIONS

- A. Bidders must be properly licensed under the laws governing their respective trades and be able to obtain insurance and bonds required for the Work. A Performance Bond, a separate Labor, and Material Payment Bond, and Insurance in a form acceptable to the Owner will be required of the successful Bidder.

END OF DOCUMENT 001116

DOCUMENT 002113 - INSTRUCTIONS TO BIDDERS

1.1 INSTRUCTIONS TO BIDDERS

- A. AIA Document A701, "Instructions to Bidders," is hereby incorporated into the Procurement and Contracting Requirements by reference.

- 1. A copy of AIA Document A701, "Instructions to Bidders," is bound in this Project Manual.

END OF DOCUMENT 002113



AIA[®] Document A701[™] – 2018

Instructions to Bidders

for the following Project:
(Name, location, and detailed description)

Root Control 2022

This Project consists of applying an herbicide root control product within our sanitary sewer lines to eliminate any root growth present and to control any future re-growth within the sewer system. The City is looking to do a Year Contract with the possibility of four (4) One-year renewal contracts. The Contractor will be allowed the opportunity to adjust the Bid Tab on each 1-year renewal up to 5%. The City of Myrtle Beach will provide location maps once the project is awarded. The City of Myrtle Beach will assist in locating and uncovering manholes that cannot be located on the list and will assist in the removal of any excess sewage or grease located in manholes. The Contractor is responsible for removing/replacing fencing and/or anything obstructing access to manholes. The contractor will also be responsible for replacing or repairing any damage to landscaping or hard-scape.

THE OWNER:

(Name, legal status, address, and other information)

The City of Myrtle Beach
P.O. Drawer 2468
Myrtle Beach, SC 29578
Telephone Number: 843-918-1000

THE ARCHITECT:

(Name, legal status, address, and other information)

Not Applicable on this Project

TABLE OF ARTICLES

1	DEFINITIONS
2	BIDDER'S REPRESENTATIONS
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6	POST-BID INFORMATION
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8	ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

FEDERAL, STATE, AND LOCAL LAWS MAY IMPOSE REQUIREMENTS ON PUBLIC PROCUREMENT CONTRACTS. CONSULT LOCAL AUTHORITIES OR AN ATTORNEY TO VERIFY REQUIREMENTS APPLICABLE TO THIS PROCUREMENT BEFORE COMPLETING THIS FORM.

It is intended that AIA Document G612[™]-2017, Owner's Instructions to the Architect, Parts A and B will be completed prior to using this document.

ARTICLE 1 DEFINITIONS

§ 1.1 Bidding Documents include the Bidding Requirements and the Proposed Contract Documents. The Bidding Requirements consist of the advertisement or invitation to bid, Instructions to Bidders, supplementary instructions to bidders, the bid form, and any other bidding forms. The Proposed Contract Documents consist of the unexecuted form of Agreement between the Owner and Contractor and that Agreement's Exhibits, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, all Addenda, and all other documents enumerated in Article 8 of these Instructions.

§ 1.2 Definitions set forth in the General Conditions of the Contract for Construction, or in other Proposed Contract Documents apply to the Bidding Documents.

§ 1.3 Addenda are written or graphic instruments issued by the Architect, which, by additions, deletions, clarifications, or corrections, modify or interpret the Bidding Documents.

§ 1.4 A Bid is a complete and properly executed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.

§ 1.5 The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents, to which Work may be added or deleted by sums stated in Alternate Bids.

§ 1.6 An Alternate Bid (or Alternate) is an amount stated in the Bid to be added to or deducted from, or that does not change, the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

§ 1.7 A Unit Price is an amount stated in the Bid as a price per unit of measurement for materials, equipment, or services, or a portion of the Work, as described in the Bidding Documents.

§ 1.8 A Bidder is a person or entity who submits a Bid and who meets the requirements set forth in the Bidding Documents.

§ 1.9 A Sub-bidder is a person or entity who submits a bid to a Bidder for materials, equipment, or labor for a portion of the Work.

ARTICLE 2 BIDDER'S REPRESENTATIONS

§ 2.1 By submitting a Bid, the Bidder represents that:

- .1 the Bidder has read and understands the Bidding Documents;
- .2 the Bidder understands how the Bidding Documents relate to other portions of the Project, if any, being bid concurrently or presently under construction;
- .3 the Bid complies with the Bidding Documents;
- .4 the Bidder has visited the site, become familiar with local conditions under which the Work is to be performed, and has correlated the Bidder's observations with the requirements of the Proposed Contract Documents;
- .5 the Bid is based upon the materials, equipment, and systems required by the Bidding Documents without exception; and
- .6 the Bidder has read and understands the provisions for liquidated damages, if any, set forth in the form of Agreement between the Owner and Contractor.

ARTICLE 3 BIDDING DOCUMENTS

§ 3.1 Distribution

§ 3.1.1 Bidders shall obtain complete Bidding Documents, as indicated below, from the issuing office designated in the advertisement or invitation to bid, for the deposit sum, if any, stated therein.

(Indicate how, such as by email, website, host site/platform, paper copy, or other method Bidders shall obtain Bidding Documents.)

Plans may be purchased from the City of Myrtle Beach Procurement Department.

§ 3.1.2 Any required deposit shall be refunded to Bidders who submit a bona fide Bid and return the paper Bidding Documents in good condition within ten days after receipt of Bids. The cost to replace missing or damaged paper documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the paper Bidding Documents, and the Bidder's deposit will be refunded.

§ 3.1.3 Bidding Documents will not be issued directly to Sub-bidders unless specifically offered in the advertisement or invitation to bid, or in supplementary instructions to bidders.

§ 3.1.4 Bidders shall use complete Bidding Documents in preparing Bids. Neither the Owner nor Architect assumes responsibility for errors or misinterpretations resulting from the use of incomplete Bidding Documents.

§ 3.1.5 The Bidding Documents will be available for the sole purpose of obtaining Bids on the Work. No license or grant of use is conferred by distribution of the Bidding Documents.

§ 3.2 Modification or Interpretation of Bidding Documents

§ 3.2.1 The Bidder shall carefully study the Bidding Documents, shall examine the site and local conditions, and shall notify the Architect of errors, inconsistencies, or ambiguities discovered and request clarification or interpretation pursuant to Section 3.2.2.

§ 3.2.2 Requests for clarification or interpretation of the Bidding Documents shall be submitted by the Bidder in writing and shall be received by the Architect at least seven days prior to the date for receipt of Bids.
(Indicate how, such as by email, website, host site/platform, paper copy, or other method Bidders shall submit requests for clarification and interpretation.)

All questions must be submitted in writing (email or written letter) to the City of Myrtle Beach Procurement Department by close of business Tuesday November 1, 2022

§ 3.2.3 Modifications and interpretations of the Bidding Documents shall be made by Addendum. Modifications and interpretations of the Bidding Documents made in any other manner shall not be binding, and Bidders shall not rely upon them.

§ 3.3 Substitutions

§ 3.3.1 The materials, products, and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance, and quality to be met by any proposed substitution.

§ 3.3.2 Substitution Process

§ 3.3.2.1 Written requests for substitutions shall be received by the Architect at least ten days prior to the date for receipt of Bids. Requests shall be submitted in the same manner as that established for submitting clarifications and interpretations in Section 3.2.2.

§ 3.3.2.2 Bidders shall submit substitution requests on a Substitution Request Form if one is provided in the Bidding Documents.

§ 3.3.2.3 If a Substitution Request Form is not provided, requests shall include (1) the name of the material or equipment specified in the Bidding Documents; (2) the reason for the requested substitution; (3) a complete description of the proposed substitution including the name of the material or equipment proposed as the substitute, performance and test data, and relevant drawings; and (4) any other information necessary for an evaluation. The request shall include a statement setting forth changes in other materials, equipment, or other portions of the Work, including changes in the work of other contracts or the impact on any Project Certifications (such as LEED), that will result from incorporation of the proposed substitution.

§ 3.3.3 The burden of proof of the merit of the proposed substitution is upon the proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.

§ 3.3.4 If the Architect approves a proposed substitution prior to receipt of Bids, such approval shall be set forth in an Addendum. Approvals made in any other manner shall not be binding, and Bidders shall not rely upon them.

§ 3.3.5 No substitutions will be considered after the Contract award unless specifically provided for in the Contract Documents.

§ 3.4 Addenda

§ 3.4.1 Addenda will be transmitted to Bidders known by the issuing office to have received complete Bidding Documents.

(Indicate how, such as by email, website, host site/platform, paper copy, or other method Addenda will be transmitted.)

§ 3.4.2 Addenda will be available where Bidding Documents are on file.

§ 3.4.3 Addenda will be issued no later than four days prior to the date for receipt of Bids, except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

§ 3.4.4 Prior to submitting a Bid, each Bidder shall ascertain that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid.

ARTICLE 4 BIDDING PROCEDURES

§ 4.1 Preparation of Bids

§ 4.1.1 Bids shall be submitted on the forms included with or identified in the Bidding Documents.

§ 4.1.2 All blanks on the bid form shall be legibly executed. Paper bid forms shall be executed in a non-erasable medium.

§ 4.1.3 Sums shall be expressed in both words and numbers, unless noted otherwise on the bid form. In case of discrepancy, the amount entered in words shall govern.

§ 4.1.4 Edits to entries made on paper bid forms must be initialed by the signer of the Bid.

§ 4.1.5 All requested Alternates shall be bid. If no change in the Base Bid is required, enter "No Change" or as required by the bid form.

§ 4.1.6 Where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture of the bid security, state the Bidder's refusal to accept award of less than the combination of Bids stipulated by the Bidder. The Bidder shall neither make additional stipulations on the bid form nor qualify the Bid in any other manner.

§ 4.1.7 Each copy of the Bid shall state the legal name and legal status of the Bidder. As part of the documentation submitted with the Bid, the Bidder shall provide evidence of its legal authority to perform the Work in the jurisdiction where the Project is located. Each copy of the Bid shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further name the state of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached, certifying the agent's authority to bind the Bidder.

§ 4.1.8 A Bidder shall incur all costs associated with the preparation of its Bid.

§ 4.2 Bid Security

§ 4.2.1 Each Bid shall be accompanied by the following bid security:

(Insert the form and amount of bid security.)

Bid security in the amount of 5% of the bid total shall be provided by the bidder, see Section 002224 = Bid Bond

§ 4.2.2 The Bidder pledges to enter into a Contract with the Owner on the terms stated in the Bid and shall, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty. In the event the Owner fails to comply with Section 6.2, the amount of the bid security shall not be forfeited to the Owner.

§ 4.2.3 If a surety bond is required as bid security, it shall be written on AIA Document A310™, Bid Bond, unless otherwise provided in the Bidding Documents. The attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of an acceptable power of attorney. The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 4.2.4 The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until (a) the Contract has been executed and bonds, if required, have been furnished; (b) the specified time has elapsed so that Bids may be withdrawn; or (c) all Bids have been rejected. However, if no Contract has been awarded or a Bidder has not been notified of the acceptance of its Bid, a Bidder may, beginning days after the opening of Bids, withdraw its Bid and request the return of its bid security.

§ 4.3 Submission of Bids

§ 4.3.1 A Bidder shall submit its Bid as indicated below:

(Indicate how, such as by website, host site/platform, paper copy, or other method Bidders shall submit their Bid.)

Bids shall be received by the City of Myrtle Beach at the Procurement Office by the time and date set forth in this document, at which time they will be opened publicly and read aloud.

§ 4.3.2 Paper copies of the Bid, the bid security, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name, the Bidder's name and address, and, if applicable, the designated portion of the Work for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.

§ 4.3.3 Bids shall be submitted by the date and time and at the place indicated in the invitation to bid. Bids submitted after the date and time for receipt of Bids, or at an incorrect place, will not be accepted.

§ 4.3.4 The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

§ 4.3.5 A Bid submitted by any method other than as provided in this Section 4.3 will not be accepted.

§ 4.4 Modification or Withdrawal of Bid

§ 4.4.1 Prior to the date and time designated for receipt of Bids, a Bidder may submit a new Bid to replace a Bid previously submitted, or withdraw its Bid entirely, by notice to the party designated to receive the Bids. Such notice shall be received and duly recorded by the receiving party on or before the date and time set for receipt of Bids. The receiving party shall verify that replaced or withdrawn Bids are removed from the other submitted Bids and not considered. Notice of submission of a replacement Bid or withdrawal of a Bid shall be worded so as not to reveal the amount of the original Bid.

§ 4.4.2 Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids in the same format as that established in Section 4.3, provided they fully conform with these Instructions to Bidders. Bid security shall be in an amount sufficient for the Bid as resubmitted.

§ 4.4.3 After the date and time designated for receipt of Bids, a Bidder who discovers that it made a clerical error in its Bid shall notify the Architect of such error within two days, or pursuant to a timeframe specified by the law of the jurisdiction where the Project is located, requesting withdrawal of its Bid. Upon providing evidence of such error to the reasonable satisfaction of the Architect, the Bid shall be withdrawn and not resubmitted. If a Bid is withdrawn pursuant to this Section 4.4.3, the bid security will be attended to as follows:

(State the terms and conditions, such as Bid rank, for returning City of Myrtle to define retaining the bid security.)

ARTICLE 5 CONSIDERATION OF BIDS

§ 5.1 Opening of Bids

If stipulated in an advertisement or invitation to bid, or when otherwise required by law, Bids properly identified and received within the specified time limits will be publicly opened and read aloud. A summary of the Bids may be made available to Bidders.

§ 5.2 Rejection of Bids

Unless otherwise prohibited by law, the Owner shall have the right to reject any or all Bids.

§ 5.3 Acceptance of Bid (Award)

§ 5.3.1 It is the intent of the Owner to award a Contract to the lowest responsive and responsible Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents. Unless otherwise prohibited by law, the Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's best interests.

§ 5.3.2 Unless otherwise prohibited by law, the Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the lowest responsive and responsible Bidder on the basis of the sum of the Base Bid and Alternates accepted.

ARTICLE 6 POST-BID INFORMATION

§ 6.1 Contractor's Qualification Statement

Bidders to whom award of a Contract is under consideration shall submit to the Architect, upon request and within the timeframe specified by the Architect, a properly executed AIA Document A305™, Contractor's Qualification Statement, unless such a Statement has been previously required and submitted for this Bid.

§ 6.2 Owner's Financial Capability

A Bidder to whom award of a Contract is under consideration may request in writing, fourteen days prior to the expiration of the time for withdrawal of Bids, that the Owner furnish to the Bidder reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. The Owner shall then furnish such reasonable evidence to the Bidder no later than seven days prior to the expiration of the time for withdrawal of Bids. Unless such reasonable evidence is furnished within the allotted time, the Bidder will not be required to execute the Agreement between the Owner and Contractor.

§ 6.3 Submittals

§ 6.3.1 After notification of selection for the award of the Contract, the Bidder shall, as soon as practicable or as stipulated in the Bidding Documents, submit in writing to the Owner through the Architect:

- .1 a designation of the Work to be performed with the Bidder's own forces;
- .2 names of the principal products and systems proposed for the Work and the manufacturers and suppliers of each; and
- .3 names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.

§ 6.3.2 The Bidder will be required to establish to the satisfaction of the Architect and Owner the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.

§ 6.3.3 Prior to the execution of the Contract, the Architect will notify the Bidder if either the Owner or Architect, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If the Owner or Architect has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, withdraw the Bid or submit an acceptable substitute person or entity. The Bidder may also submit any required adjustment in the Base Bid or Alternate Bid to account for the difference in cost occasioned by such substitution. The Owner may accept the adjusted bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited.

§ 6.3.4 Persons and entities proposed by the Bidder and to whom the Owner and Architect have made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of the Owner and Architect.

ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND

§ 7.1 Bond Requirements

§ 7.1.1 If stipulated in the Bidding Documents, the Bidder shall furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder.

§ 7.1.2 If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall be added to the Bid in determining the Contract Sum.

§ 7.1.3 The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 7.1.4 Unless otherwise indicated below, the Penal Sum of the Payment and Performance Bonds shall be the amount of the Contract Sum.

(If Payment or Performance Bonds are to be in an amount other than 100% of the Contract Sum, indicate the dollar amount or percentage of the Contract Sum.)

§ 7.2 Time of Delivery and Form of Bonds

§ 7.2.1 The Bidder shall deliver the required bonds to the Owner not later than three days following the date of execution of the Contract. If the Work is to commence sooner in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished and delivered in accordance with this Section 7.2.1.

§ 7.2.2 Unless otherwise provided, the bonds shall be written on AIA Document A312, Performance Bond and Payment Bond.

§ 7.2.3 The bonds shall be dated on or after the date of the Contract.

§ 7.2.4 The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix to the bond a certified and current copy of the power of attorney.

ARTICLE 8 ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS

§ 8.1 Copies of the proposed Contract Documents have been made available to the Bidder and consist of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor, unless otherwise stated below.
(Insert the complete AIA Document number, including year, and Document title.)

- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds, unless otherwise stated below.
(Insert the complete AIA Document number, including year, and Document title.)

- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction, unless otherwise stated below.
(Insert the complete AIA Document number, including year, and Document title.)

- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013.)

- .5 Drawings

Number	Title	Date
See Specification Book	Root Control Specs	

.6 Specifications

Section	Title	Date	Pages
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.7 Addenda:

Number	Date	Pages
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.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017.)

The Sustainability Plan:

Title	Date	Pages
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Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Specification Book	Special Provisions		

.9 Other documents listed below:

(List here any additional documents that are intended to form part of the Proposed Contract Documents.)

Additions and Deletions Report for **AIA[®] Document A701[™] – 2018**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:54:32 ET on 10/11/2022.

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Root Control 2022

This Project consists of applying an herbicide root control product within our sanitary sewer lines to eliminate any root growth present and to control any future re-growth with-in the sewer system. The City is looking to do a Year Contract with the possibility of four (4) One-year renewal contracts. The Contractor will be allowed the opportunity to adjust the Bid Tab on each 1-year renewal up to 5%. The City of Myrtle Beach will provide lo-cation maps once the project is awarded. The City of Myrtle Beach will assist in locating and uncovering manholes that cannot be located on the list and will assist in the removal of any excess sewage or grease located in manholes. The Contractor is responsible for removing/replacing fencing and/or anything obstructing access to manholes. The contractor will also be responsible for replacing or repairing any damage to landscaping or hard-scape.

...

The City of Myrtle Beach
P.O. Drawer 2468
Myrtle Beach, SC 29578
Telephone Number: 843-918-1000

...

Not Applicable on this Project

PAGE 2

Plans may be purchased from the City of Myrtle Beach Procurement Department.

PAGE 3

All questions must be submitted in writing (email or written letter) to the City of Myrtle Beach Procurement Department by close of business Tuesday November 1, 2022

PAGE 4

Bid security in the amount of 5% of the bid total shall be provided by the bidder, see Section 002224 = Bid Bond

PAGE 5

Bids shall be received by the City of Myrtle Beach at the Procurement Office by the time and date set forth in this document, at which time they will be opened publicly and read aloud.

...

(State the terms and conditions, such as Bid rank, for returning ~~to~~ City of Myrtle to define retaining the bid security.)

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See Specification Book

Root Control Specs

...

Specification Book

Special Provisions



Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Chris Miller, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:54:32 ET on 10/11/2022 under Order No. 2114247445 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A701™ – 2018, Instructions to Bidders, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

DOCUMENT 002213 - SUPPLEMENTARY INSTRUCTIONS TO BIDDERS

- A. Instructions to Bidders for Project consist of the following:
 - 1. AIA Document A701, "Instructions to Bidders", a copy of which is bound in this Project Manual.
 - 2. The following Supplementary Instructions to Bidders that modify and add to the requirements of the Instructions to Bidders.

1.2 SUPPLEMENTARY INSTRUCTIONS TO BIDDERS, GENERAL

- A. The following supplements modify AIA Document A701, "Instructions to Bidders." Where a portion of the Instructions to Bidders is modified or deleted by these Supplementary Instructions to Bidders, unaltered portions of the Instructions to Bidders shall remain in effect.

1.3 ARTICLE 1 - DEFINITIONS

- A. Specifications Section 1.1 for the following:
 - 1. Bidding Documents include the Bidding Requirements and the Proposed Contract Documents. The Bidding Requirements consist of the advertisement or invitation to bid, Instructions to Bidders, supplementary instructions to bidders, the bid form, and any other bidding forms. The Proposed Contract Documents consist of the unexecuted form of Agreement between the Owner and Contractor and that Agreement's Exhibits, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, all Addenda, and all other documents enumerated in Article 8 of these Instructions as issued by the Purchasing Office.
- B. Substitute Section 1.3 for the following:
 - 1. Addenda are written or graphic instruments that, when applicable are developed and generated by the architect/engineer prior to the execution of the contract, which modified or interpret the bidding documents by additions, deletions, clarifications or corrections.
- C. Add Section 1.6.1 - Alternates
 - 1. "Alternate prices as required are listed in Section 004323 - ALTERNATES FORM."
- D. Add Section 1.10 - Owner
 - 1. "Owner", - The City of Myrtle Beach, South Carolina

1.4 ARTICLE 2 - BIDDER'S REPRESENTATIONS

- A. Add Paragraph 2.1.2
 - 1. "2.1.2 - Failure to do so will be at the Bidder's own risk and he cannot attain release of responsibility on the plea of an error in his bid."
- B. Add Section 2.1.3.1:
 - 1. '2.1.3.1 - The Bidder has investigated all required fees, permits, and regulatory requirements of authorities having jurisdiction and has properly included in the submitted

bid the cost of such fees, permits, and requirements not otherwise indicated as provided by Owner.”

C. Add Section 2.1.5:

1. “2.1.5 - The Bidder is a properly licensed Contractor according to the laws and regulations of the City of Myrtle Beach and State of South Carolina and meets qualifications indicated in the Procurement and Contracting Documents.”

D. Add Section 2.1.6:

1. “2.1.6 - The Bidder has incorporated into the Bid adequate sums for work performed by installers whose qualifications meet those indicated in the Procurement and Contracting Documents.”

1.5 ARTICLE 3 - BIDDING DOCUMENTS

A. 3.1.2 - Delete this Section.

B. 3.2 - Interpretation or Correction of Procurement and Contracting Documents:

1. Add Section 3.2.2.1:

- a. “3.2.2.1 - Submit Bidder's Requests for Interpretation using form bound in the Project Manual.”

2. Add Section 3.3.1.1:

- a. “Specific reference in the specifications to any article, device, product, materials, fixtures, form or type of construction etc., by name, make or catalog number, with or without the words approved substitution shall be interpreted as establishing a standard of quality and shall not be construed as limiting competition and the contractor in such cases may, at his option, use an article, device, product, material, fixture, form, or type of construction which in the judgment of the architect expressed in writing, is an approved substitution to that specified.”

3. Add Section 3.3.2:

- a. “No substitute to that specified or called for on the drawings will be considered unless request for approval is submitted NOT LESS THAN Five (5) CALENDAR DAYS PRIOR TO THE BID DATE and approval of same issued to all Bidders of Record by Addendum not later than five (5) calendar days prior to the bid date. Each request shall contain the following:

- 1) Name of project and location.
- 2) Name of material or equipment to be submitted.
- 3) Performance and test data.
- 4) Any and all other detailed specification information required for an evaluation.
- 5) Specified location of item in contract documents.
- 6) Complete list designating any changes in related materials, equipment, and/or work that inclusion of substitute would necessitate.
- 7) Line by line difference comparisons between specified item and item submitted for approvals.
- 8) Drawings, if needs.
- 9) Samples, when applicable.

NOTE: NO REQUEST WILL BE CONSIDERED UNLESS ALL RELATED INFORMATION IS SUBMITTED.

The Architect's decision of approval or disapproval of the request for substitution shall be final. The successful bidder shall be responsible for using only materials, equipment, and/or work as stipulated in these specifications, or as published as an approved substitution."

C. 3.4 - Addenda:

1. Substitute for Section 3.4.1

- a. "3.4.1 - Addenda will be transmitted to all who are known by the Purchasing Office to have received a complete set of bidding documents.
- b. Last day for questions November 1, 2022 at 5:00pm
- c. Last day for questions November 8, 2022 at 5:00pm

2. Add Section 3.4.3

- a. "3.4.3 - No addenda shall be issued later than five (5) days prior to the date of receipt of bids."

1.6 ARTICLE 4 - BIDDING PROCEDURES

A. 4.1 - Preparation of Bids:

1. Add Section 4.1.8:

- a. "4.1.8 - The Bid shall include unit prices when called for by the Procurement and Contracting Documents. Owner may elect to consider unit prices in the determination of award. Unit prices will be incorporated into the Contract."

2. Add Section 4.1.9:

- a. "4.1.9 - Owner may elect to disqualify a bid due to failure to submit a bid in the form requested, failure to bid requested alternates or unit prices, failure to complete entries in all blanks in the Bid Form, or inclusion by the Bidder of any alternates, conditions, limitations or provisions not called for."

3. Add Paragraph 4.1.10:

- a. "Any item listed in Paragraphs 4.1.4, 4.1.5 and 4.1.7 or irregularity of any kind shall be considered reason for rejection of bid by the Owner."

4. Delete Paragraph 4.2 in its entirety and substitute the following:

- a. "A Bid Security will be required for this Project in accordance with Section 001116 "Invitation To Bid"."

B. 4.3 - Submission of Bids:

1. Add Section 4.3.1.2:
 - a. "4.3.1.2 - Include Bidder's Contractor License Number applicable in Project jurisdiction on the face of the sealed bid envelope."
 - C. 4.4 - Modification or Withdrawal of Bids:
 1. Add the following sections to 4.4.2:
 - a. "4.4.2.1 - Owner will consider modifications to a bid written on the sealed bid envelope by authorized persons when such modifications comply with the following: the modification is indicated by a percent or stated amount to be added to or deducted from the Bid; the amount of the Bid itself is not made known by the modification; a signature of the authorized person, along with the time and date of the modification, accompanies the modification. Completion of an unsealed bid form, awaiting final figures from the Bidder, does not require power of attorney due to the evidenced authorization of the Bidder implied by the circumstance of the completion and delivery of the Bid."
 - D. 4.5 - Subcontractors, Suppliers, and Manufacturers List Bid Supplement:
 1. Add Section 4.6:
 - a. "4.6 - Provide list of major subcontractors as requested in Bid Form Document 004113. Do not change subcontractors, suppliers, and manufacturers from those submitted without approval of Architect."
- 1.7 ARTICLE 5 - CONSIDERATION OF BIDS
- A. 5.1 - Opening of Bids:
 1. Add Section 5.1.1
 - a. "Bids will be opened publicly and read aloud at the time and place stated in the Invitation to Bid. The officer whose duty it is to open the bids decides when the specified time has arrived and no bid received thereafter will be considered. No responsibility will attach to any officer for the premature opening of a bid not properly addressed and identified."
 2. Add Section 5.1.2
 - a. Availability of Funds. Unless cancelled prior to the bid opening date, all bids received on time will be opened as indicated in the solicitation and the names will be indicated on the bid tab. The City's obligation under this requirement is contingent upon the availability of funds from which payment for contract purposes can be made. No legal liability on the part of the City for any payment may arise until funds are made available and until the Bidder receives notice of such availability from the City's Purchasing Division. If funding is not made available, the IFB will be cancelled.
 - B. 5.2 - Rejection of Bids:
 1. Add Section 5.2.1:

- a. "5.2.1 - Owner reserves the right to reject a bid based on Owner's and Architect's evaluation of qualification information submitted following opening of bids. Owner's evaluation of the Bidder's qualifications will include: status of licensure and record of compliance with licensing requirements, record of quality of completed work, record of Project completion and ability to complete, record of financial management including financial resources available to complete Project and record of timely payment of obligations, record of Project site management including compliance with requirements of authorities having jurisdiction, record of and number of current claims and disputes and the status of their resolution, and qualifications of the Bidder's proposed Project staff and proposed subcontractors."
2. Add Paragraph 5.3.1 - Acceptance of bid (Award) - Add the following:
 - a. "...in any bid received, when such wavier or refection is in the best interest of the Owner and to award the job in the best interest of the Owner."
3. Add Paragraph 5.3.3 - Pre-Award Disputes and Protests:
 - a. **Informal Dispute Resolution.** A Bidder who has a concern with a decision made by the Purchasing Agent or designee, shall first inform the Purchasing Agent, or designee, within five (5) calendar days after the date the City posts a bid tab on the City's website stating its intention to make a contract award, or the contract is awarded, whichever occurs first, unless the bid document specified a shorter time period. The Purchasing Agent or designee shall discuss the issue(s) with the Bidder in an attempt to resolve the dispute.
 - b. **Formal Dispute Resolution.** A Bidder who has a dispute that cannot be resolved by informal efforts may file a written protest with the City of Myrtle Beach in connection with any of the following:
 - 1) A solicitation or other request for a contract or agreement for the acquisition of materials, supplies, equipment, and/or services.
 - 2) An award of a contract or agreement for the acquisition of materials, supplies, equipment, and/or services.
 - 3) A termination or cancellation of the award of a contract or agreement for the acquisition of materials, supplies, equipment, and/or services if the objection is based, in whole or in part, on the allegation that the award of the contract or agreement was improper.
 - c. **Procedures/Timelines.** A formal protest may be filed in the following manner:
 - 1) A protest must be submitted in writing, filed by an Interested Party, and addressed to the Purchasing Agent or designee. An e-mail is not acceptable as a written protest.
 - 2) The protest must be signed by an authorized agent or representative of the Interested Party.
 - 3) An administrative fee shall be submitted with the written protest and shall be made in the form of a certified check or money order made payable to the City of Myrtle Beach. The administrative fee will be calculated as five percent (5%) of the protestor's bid amount. In a case where the protestor did not submit a bid, the administrative fee will be calculated as five percent (5%) of the lowest responsive and responsible bid received by the City. The Administrative fee shall be returned if the protest is upheld; otherwise the fee is non-refundable.
 - 4) Within five (5) calendar days of discussing the dispute with the Purchasing Agent or designee, the written protest and administrative fee must be received by the Purchasing Agent or designee. A protest received after the

five (5) calendar days, or without the appropriate administrative fee, will not be considered.

- 5) The written protest shall include:
 - a) The name and address to which certified mail is received on behalf of the protestor.
 - b) An appropriate identification of the solicitation, and if a contract has been awarded, the contract number.
 - c) A complete statement of the reasons for the protest, including exhibits, documents, or other evidence in support of the reasons for the protest.
 - d) A request for a remedy sought by the protestor.
- 6) Upon receipt of the protest, the Purchasing Agent or designee shall promptly deliver a copy of the protest to the City Attorney, and notify the Director of Financial Services and any/all other representatives of City departments associated with the solicitation.

d. **Stay of the Procurement.**

- 1) When a protest has been timely and appropriately filed before the award of a contract or agreement, the contract or agreement shall not be awarded unless the Purchasing Agent or designee determines that the award of the contract or agreement during the pendency of the protest is necessary to protect substantial interests of the City.
- 2) When a protest has been timely and appropriately filed after the award of a contract or agreement, the Purchasing Agent or the designee shall direct the contractor not to engage in any further performance of the contract or agreement, unless the Purchasing Agent or designee determines that the performance under the contract or agreement during the pendency of protest is necessary to protect substantial interest of the City.

e. **Confidentiality of Information.** The Purchasing Agent or designee shall, upon written request, make available to any other interested party information submitted that bears on the substance of the protest, except where information is proprietary, confidential, or otherwise permitted or required to be withheld from disclosure by law or regulation. Persons or other entities that are involved in the protest that want to keep information submitted by them as confidential should request that the information not be disclosed by specifically identifying the confidential information within the documents submitted by indicating on the front page of each document that it contains confidential information.

f. **Post-Filing Formal Protest Process.** Once a protest has been filed appropriately, the Purchasing Agent or designee may, in its sole discretion, may engage in any or all of the following:

- 1) Hold a conference between all parties to the protest in which resolution options are explored.
- 2) Conduct an investigation of the merits of the protest allegations.
- 3) Order the parties to the protest to engage in certain methods of discovery and set limits in terms of discovery scope and time.
- 4) Schedule and conduct a protest hearing.
 - a) The Purchasing Agent or designee will render a decision on the merits of the protest after engaging in some or none of the activities listed above.

- g. **Formal Protest Decision Timeline and Notification.** A decision on a protest shall be made by the Purchasing Agent or designee as expeditiously as possible, but no later than ten (10) City of Myrtle Beach business days after receiving the protest. In determining the protest, the Purchasing Agent or designee may terminate the contract or agreement, issue a new solicitation or other request for contract or agreement, or award a contract or agreement. The protest decision shall be mailed to the protester by certified mail, return receipt requested.
- h. **Appeals.** To the extent permitted by law or court rules regarding appeals, an appeal of the decision regarding the protest may be made to a court of competent jurisdiction within the time set forth in the Rules.

C. Add Section 5.4:

- 1. "5.4 - Notice of Award:
 - a. "Notice of Award", - The written notice by Owner to the successful Bidder stating that upon compliance with the conditions precedent enumerated therein, and within the time specified, Owner will sign and deliver the Agreement.
 - b. "Notice to Proceed", - A written notice given by Owner to Contractor, (with a copy to Engineer), fixing the date on which the Contract Time will commence to run and on which Contractor shall start to perform Contractor's obligation under the Contract Documents and the date on which all work scheduled under the Contract shall be completed."

1.8 ARTICLE 6 - POSTBID INFORMATION

A. 6.1 - Contractor's Qualification Statement:

- 1. Add Section 6.1.1:
 - a. "6.1.1 - Submit Contractor's Qualification Statement no later than two business days following Architect's request."

B. 6.3 - Submittals:

- 1. Add Section 6.3.1.4:
 - a. "6.3.1.4 - Submit information requested in Sections 6.3.1.1, 6.3.1.2, and 6.3.1.3 no later than two business days following Architect's request."

1.9 ARTICLE 7 - PERFORMANCE BOND AND PAYMENT BOND

A. 7.1 - Bond Requirements:

- 1. Add Section 7.1.1.1:
 - a. "7.1.1.1 - Both a Performance Bond and a Payment Bond will be required, each in an amount equal to 100 percent of the Contract Sum."
- 2. Add Paragraph 7.1.4

- a. "The successful contractor shall be required to furnish Performance bond in the sum of 100% of the contract amount, and a Labor and Materials Payment bond in the sum of 100% of the contract amount. Bonds shall be issued on document A-312, current edition, published by the American Institute of Architects, and shall be written by a Surety Company licensed in South Carolina, with an "A" minimum rating of performance as stated in the most current publication of "Best's Key Rating Guide, Property Liability", which shall show a financial strength rating of at least five times the contract price. Each bond shall be accompanied by a "Power of Attorney" authorizing the attorney-in-fact to bind the surety and certified to include the date of the bond."
3. Delete Section 7.2.3 and insert the following:
 - a. "7.2.3 - Bonds shall be executed and be in force on the date of the execution of the Contract."
- 1.10 ARTICLE 8 - FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR
- A. AIA Document A101, Standard Form of Agreement Between Owner and Contractor.
- 1.11 ARTICLE 9 - EXECUTION OF THE CONTRACT
- A. Add Article 9:
 1. "9.1.1 - Subsequent to the Notice of Intent to Award, and within [10] days after the prescribed Form of Agreement is presented to the Awardee for signature, the Awardee shall execute and deliver the Agreement to Owner through Architect and/or Engineer, in such number of counterparts as Owner may require.
 2. 9.1.2 - Owner may deem as a default the failure of the Awardee to execute the Contract and to supply the required bonds when the Agreement is presented for signature within the period of time allowed.
 3. 9.1.3 - Unless otherwise indicated in the Procurement and Contracting Documents or the executed Agreement, the date of commencement of the Work shall be the date of the executed Agreement and as established in the Notice To Proceed.
 4. 9.1.4 - In the event of a default, Owner may declare the amount of the Bid security forfeited and elect to either award the Contract to the next responsible bidder or re-advertise for bids."

END OF DOCUMENT 002213



AIA® Document A201® – 2007

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Root Control 2022

This Project consists of applying an herbicide root control product within our sanitary sewer lines to eliminate any root growth present and to control any future re-growth within the sewer system. The City is looking to do a Year Contract with the possibility of four (4) One-year renewal contracts. The Contractor will be allowed the opportunity to adjust the Bid Tab on each 1-year renewal up to 5%. The City of Myrtle Beach will provide location maps once the project is awarded. The City of Myrtle Beach will assist in locating and uncovering manholes that cannot be located on the list and will assist in the removal of any excess sewage or grease located in manholes. The Contractor is responsible for removing/replacing fencing and/or anything obstructing access to manholes. The contractor will also

THE OWNER:

(Name, legal status and address)

The City of Myrtle Beach
P.O. Drawer 2468
Myrtle Beach, SC 29578

THE ARCHITECT:

(Name, legal status and address)

Not Applicable to this Project

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 OWNER
- 3 CONTRACTOR
- 4 ARCHITECT
- 5 SUBCONTRACTORS
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
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- 10 PROTECTION OF PERSONS AND PROPERTY
- 11 INSURANCE AND BONDS
- 12 UNCOVERING AND CORRECTION OF WORK

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

13	MISCELLANEOUS PROVISIONS
14	TERMINATION OR SUSPENSION OF THE CONTRACT
15	CLAIMS AND DISPUTES



Init.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

§ 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

§ 1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

§ 1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 INSTRUMENTS OF SERVICE

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 INITIAL DECISION MAKER

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 CAPITALIZATION

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 INTERPRETATION

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

ARTICLE 2 OWNER

§ 2.1 GENERAL

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the

portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.2.4 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.2.5 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

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§ 3.4.2 Except in the case of minor changes in the Work authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 WARRANTY

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.6 TAXES

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 **Concealed or Unknown Conditions.** If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall

continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 ALLOWANCES

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 SUPERINTENDENT

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. Failure of the Architect to reply within the 14 day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's approval. The Architect's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required

submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The 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 the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design 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 the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.13 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 CUTTING AND PATCHING

§ 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

§ 3.15 CLEANING UP

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 ACCESS TO WORK

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a

party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 GENERAL

§ 4.1.1 The Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 If the employment of the Architect is terminated, the Owner shall employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 4.2 ADMINISTRATION OF THE CONTRACT

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed.

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However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

§ 6.2 MUTUAL RESPONSIBILITY

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

§ 7.2 CHANGE ORDERS

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.7.

§ 7.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 7.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 MINOR CHANGES IN THE WORK

The Architect has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

ARTICLE 8 TIME

§ 8.1 DEFINITIONS

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 PROGRESS AND COMPLETION

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation and arbitration; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 CONTRACT SUM

The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.2 SCHEDULE OF VALUES

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon

compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the

Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than seven days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.7 FAILURE OF PAYMENT

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 SUBSTANTIAL COMPLETION

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 PARTIAL OCCUPANCY OR USE

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract

Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 SAFETY OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in

whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 HAZARDOUS MATERIALS

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

§ 10.4 EMERGENCIES

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 CONTRACTOR'S LIABILITY INSURANCE

§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional

insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.2 OWNER'S LIABILITY INSURANCE

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 11.3 PROPERTY INSURANCE

§ 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

§ 11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance that will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

§ 11.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ 11.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.3.1.5 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

§ 11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

§ 11.3.7 WAIVERS OF SUBROGATION

The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND

§ 11.4.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

§ 11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 UNCOVERING OF WORK

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be

sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 ACCEPTANCE OF NONCONFORMING WORK

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 SUCCESSORS AND ASSIGNS

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 13.3 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 13.4 RIGHTS AND REMEDIES

§ 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

§ 13.5 TESTS AND INSPECTIONS

§ 13.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.6 INTEREST

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

§ 13.7 TIME LIMITS ON CLAIMS

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 13.7.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

Init.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 CLAIMS

§ 15.1.1 DEFINITION

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 15.1.2 NOTICE OF CLAIMS

Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

§ 15.1.5.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.5.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

§ 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 INITIAL DECISION

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 MEDIATION

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.6 shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 ARBITRATION

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 CONSOLIDATION OR JOINDER

§ 15.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Contractor under this Agreement.

Additions and Deletions Report for **AIA® Document A201® – 2007**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:55:21 ET on 10/11/2022.

PAGE 1

Root Control 2022

This Project consists of applying an herbicide root control product within our sanitary sewer lines to eliminate any root growth present and to control any future re-growth with-in the sewer system. The City is looking to do a Year Contract with the possibility of four (4) One-year renewal contracts. The Contractor will be allowed the opportunity to adjust the Bid Tab on each 1-year renewal up to 5%. The City of Myrtle Beach will provide lo-cation maps once the project is awarded. The City of Myrtle Beach will assist in locating and uncovering manholes that cannot be located on the list and will assist in the removal of any excess sewage or grease located in manholes. The Contractor is responsible for removing/replacing fencing and/or anything obstructing access to manholes. The contractor will also

...

The City of Myrtle Beach
P.O. Drawer 2468
Myrtle Beach, SC 29578

...

Not Applicable to this Project

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Chris Miller, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:55:21 ET on 10/11/2022 under Order No. 2114247445 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2007, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

SECTION 002215 – SUPPLEMENTARY CONDITIONS

GENERAL CONDITIONS

The "General Conditions of the Contract for Construction", AIA Document A201, Fifteenth Edition, 2007, Articles 1 through 15 inclusive, is part of this contract.

SUPPLEMENTS

The following supplements modify, delete and/or add to the General Conditions. Where any article, paragraph or subparagraph in the General Conditions is supplemented by one of the following paragraphs, the provisions of such article, paragraph, or subparagraph shall remain in effect and the supplemental provisions shall be considered as added thereto. Where any article, paragraph or subparagraph in the General Conditions is amended, voided, or superseded by any of the following paragraphs, the provisions of such article, paragraph or subparagraph not so amended, voided, or superseded shall remain in effect.

GENERAL

Wherever the word "Architect" appears in the General Conditions substitute therefor: "Architect/Engineer".

ARTICLE 1-GENERAL PROVISIONS

Add the following:

- 1.1.1.1 "Agreement", - The written agreement between the Owner and Contractor outlining the work to be performed, the Contract Time, and the Contract Price.
- 1.1.1.2 The Contractor's Bid shall be part of the Contract Documents.
- 1.1.2 "Form of Agreement shall be Standard Form of Agreement between Owner and Contractor, AIA Document Number A101, Current Edition."
 - 1.1.2.1 The Contract may not be assigned in whole or in part except upon the written consent of the Owner.
- 1.1.6.1 "Major Equipment", - The major equipment items listed by name in the Contract Documents which are to be furnished and installed under the Contract.
- 1.1.6.2 "Provide", - As used in the Specifications means furnish and install.
- 1.2.1 "In the event of conflict between the specifications and drawings, the provisions of the specifications shall govern".
- 1.2.4 It is specifically provided that this Contract is subject to all applicable laws and that the rules of law shall prevail over any provision contained in any of the Contract Documents which may be in conflict thereto or inconsistent therewith.

ARTICLE 2-OWNER

Modify as follows:

- 2.1.1 Last line delete "authorized" and substitute therefor "designated".

Add the following:

- 2.2.2.1 The Owner shall pay any building permit (refer to Section 01020-Allowances), sewer and water impact and tap fees directly to such agencies. Contractor shall notify Owner sufficiently in advance of installation schedule for these items to insure payment of such fees is processed promptly.

- 2.2.3.1 The Owner, through the Engineer, will survey and place control stakes for general layout and control grades for the construction work. The protection and care of such stakes shall thereafter be the responsibility of the contractor, and any stakes lost or destroyed will be replaced at the Contractor's expense.
- 2.2.5 Delete in its entirety and substitute therefor the following:
- 2.2.5 The Contractor will be furnished, free of charge, one (1) electronic copy of the Drawings and Specifications and will be furnished, at actual cost of reproduction, as many additional copies as he may require.
- 2.4.1 Where the Contractor has failed to complete minor items of work within the time set for completion of the Contract, but limited to cases where the value of such minor work does not exceed five percent (5%) of the total construction cost of the work, the Owner shall have the right, without terminating this Contract, of completing said items of work and then deducting from the sums due the Contractor under this Contract, the total cost incurred in completing such minor items of work. In such cases, the Owner may complete such minor items of work by force account or by employing some other Contractor. If the Owner adopts this procedure, it shall deliver to the Contractor a written statement, describing the items not completed, or imperfectly completed, and shall in such statement, demand that the Contractor complete the work in conformity with the Contract and within a time to be fixed by the Owner. If the Contractor neglects to comply within the time stated, the Owner may proceed, as herein above set forth. The time within which the Contractor shall be required to complete the items set forth in such statement will depend on the amount of time required for the performance of said work, but shall not in any event be less than ten (10) days, nor more than thirty (30) days.

ARTICLE 3-CONTRACTOR

Add the following:

- 3.1.2.1 The Prime Contractor shall perform, under his direct supervision and with individuals in his immediate employ, a minimum of 70% of the contracted work value, unless otherwise approved in writing by the Owner.
- 3.1.3.1 Neither the inspection by the Engineer nor by any of his agents, nor by an inspector, nor any order, measurements, approved modification, certificate or payment of money, nor acceptance of any part or whole of work, nor any extension of time, nor any possession by the Owner or its agents, shall operate as a waiver of any provision of this Contract or of any power reserved therein to the Owner or any right to damages thereunder, nor shall the waiver of any breach of this Contract be held to be a waiver of any other or subsequent breach. All remedies shall be construed as cumulative.
- 3.1.4 The mention of any duty or liability imposed upon the Contractor shall not be construed as a limitation or restriction or any general duty or other liability imposed upon the Contractor by this Contract, said reference to any specific duty or liability being made merely for the purpose of explanation. The Contractor shall provide all items, materials, articles, operations or methods listed, noted, mentioned or scheduled on the drawings or in any of the Contract Documents, including all labor, materials, plant, equipment, transportation and incidentals required and necessary for the completion of the work, and unless specifically shown otherwise herein, all plant, equipment and other works shall be completed in place and approved for operation. The contractor shall be responsible to the Owner for the acts and omissions of all his employees, and all other persons performing any of the work under a contract with the Contractor.
- 3.2.1.1 The following principles shall govern the settlement of disputes which may arise over discrepancies in the contract documents: (a) as between figures given on drawings and the scaled measurements, the figures shall govern - no measurements should be taken by scale as working dimensions except on large-scale drawings not dimensioned in detail; (b) as

between large-scale drawings and small-scale drawings, the larger scale shall govern; (c) as between drawings and specifications, requirements of the specifications shall govern; and (d) as between the Form of Agreement and the Specifications, requirements of the Form of Agreement shall govern. The principles set forth herein shall not alter provisions of Article I, paragraph 1.2.

- 3.2.2.1 Due to the nature of the work, adjustments may be required in new construction to meet existing conditions. Such adjustments shall be made by the Contractor without additional cost to the Owner unless the scope of such adjustment(s) is approved by the Owner in the form of a Change Order.
- 3.2.2.2 The Technical specifications and the Drawings are intended to be explanatory of each other. Any work indicated on the Drawings and not in the Technical Specifications, or vice versa, shall be brought to the attention of the Engineer for verification of the actual intent. Contradictions of this nature not brought to the attention of the Engineer for correction or verification, and acted upon by the Contractor shall be considered "At the Contractor's Risk", and if necessary, corrected by the Contractor at his expense. All work shown on the Drawings, the dimensions of which are not labeled, shall be determined by the Engineer. Should it appear that the work to be done, or any of the matters relative thereto, is not sufficiently detailed or explained in these Contract Documents, including the Drawings, the Contractor shall apply to the Engineer for such further explanations as may be necessary and shall conform thereto as part of this Contract. In the event of any doubt or questions arising respecting the true meaning of the Contract Documents, reference shall be made to the Owner and the decisions thereon shall be final.
- 3.3.1.1 No official or employee of the Owner, nor the Engineer, nor any authorized assistant or agent of either, shall be responsible for construction means, methods, techniques, sequences or procedures, time of performance or for safety precautions and programs in connection with the work. The Engineer shall not be responsible for the failure of the Contractor to carry out the work in accordance with the Contract Documents. The engineer shall not be responsible for acts or omissions of the Contractor, any Subcontractor(s), or any of their agents or employees, or any other persons performing the work.
- 3.3.4 The approval by the Engineer or the Owner of any drawing or any method of work proposed by the Contractor shall not relieve the Contractor of any of his responsibility for any errors therein and shall not be regarded as any assumption of risk, of liability by the Owner or any officer or employee thereof, and the Contractor shall have to claim under the Contract due to the failure or inefficiency of any plan or method approved. Such approval shall be considered to mean merely that the Engineer or Owner has no objection of the Contractor's using, upon his own full responsibility, the plans or methods proposed.
- 3.3.5 Any plan or method of work suggested by the Engineer or Owner to the Contractor, but not specified or required, if adopted or followed by the Contractor in whole or in part, shall be used at the risk and responsibility of the Contractor. The Engineer and the Owner shall assume no responsibility therefore.
- 3.4.3.1 Ethics of Employees - The Contractor shall exercise due diligence to detect and prevent criminal character conduct and otherwise promote an organizational culture that encourages ethical behavior and a commitment to compliance with the law. To that end, for any service related contract, the Contractor must provide their employees with ethics
- 3.4.3.2 Nondiscrimination in City Contracts - Any Bidder that enters into a contract for goods or services with the City of Myrtle Beach or any of its boards, agencies, or departments shall implement an employment nondiscrimination policy prohibiting discrimination in hiring, discharging, promoting or demoting, matters of compensation, or any other employment-related decision or benefit on account of actual or perceived race, color, religion, national origin,

gender, physical or mental disability, age, military status, sexual orientation, gender identity, gender expression, or marital or familial status; however, some conditions may be a bona fide occupational qualification reasonably necessary for the completion of this bid. Bidder shall not discriminate in the performance of the contract on account of actual or perceived race, color, religion, national origin, gender, physical or mental disability, age, military status, sexual orientation, gender identity, gender expression, or marital or familial status. Furthermore, Bidder agrees to incorporate the foregoing provisions in all subcontracts entered into with suppliers, subcontractors, and all labor organizations furnishing skilled, unskilled, and craft union skilled labor, or who may perform any such labor or services. As well as awareness training to ensure professional attitude and conduct while working on City property.

- 3.4.3.3 The contractor, sub recipient or subcontractor 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 49 CFR part 26 in the award and administration of DOT-assisted contracts. 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 or such other remedy as the recipient deems appropriate.
- 3.6.1 Contractor shall hold Owner and his agents harmless against any claim or liability from pertinent clauses of State Law.
- 3.6.2 The Contractor's attention is directed to Title 12, Chapter 9, Code of Laws of South Carolina 1976 as amended concerning withholding tax for non-residents, employees, contractors and subcontractors.
- 3.7.1.1 In order that the inspection services of municipal or county building departments might be made available for plumbing, heating, air conditioning, and electrical work the Contractor shall require that each subcontractor for these specialty contracts apply for, obtain, and pay the cost of a permit and inspection fees for that specialty for which he is a subcontractor; provided that this project is to be constructed within a municipality or county offering such services.
- 3.7.2.1 Lack of knowledge of such laws or regulations shall not relieve the contractor of this duty. Any losses resulting to the Owner because of the failure of the Contractor to comply with this duty shall be borne by the Contractor.

Contractor to omit 3.9.2 in its entirety and replace with the following:

- 3.9.2 The General Contractor shall provide a designated Project Superintendent and submit the Superintendent's resume for approval by the Architect and Owner. The Superintendent must have a minimum of 10 years' experience in the same or higher position on projects similar to this project in scope, size, and carpentry layout and execution and must be familiar with all aspects of: on-site project coordination, scheduling, safety, submittal review and coordination, and Quality Control as specified in the Contract Documents. All Project Meetings will be conducted by the Project Superintendent, who will be responsible for recording and distributing minutes of the Project Meetings. Changes to the designated Project Superintendent must be approved by the Architect and Owner.

Add the following:

- 3.9.4 Major Subcontractors (Plumbing, Mechanical, Electrical and Pre-Engineered Metal Building) shall provide a designated Superintendent with 5 years' experience in that trade, and the Superintendent must be familiar with project coordination, scheduling, safety, and the Quality Control procedures specified in the Contract Documents. This designated Subcontractor Superintendent must be on-site during all associated subcontractor activities, and must attend all Project Meetings associated with that Subcontractor's scope of work.

- 3.10.1 This schedule shall indicate the dates for the starting and completion of various stages of construction and shall be revised monthly as required by the conditions of the work.
- 3.14.3 It is Contractor's duty to coordinate with his subcontractors in advance so that pipe holes, sleeves, inserts, etc., can be installed as work progresses."
- 3.16.1 The contractor shall at all times provide facilities for access and inspection of the work by representatives of the Owner and of such official governmental agencies having jurisdictional rights to inspect the work.
- 3.18.3 Add the following: The Contractor shall not allow the use of asbestos containing products, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work, even if the products are nonfraible and/or contain minimal amounts of asbestos, and even though such products may still be legally installed.
- 3.18.4 Add the following: The Contractor shall not allow the use of lead materials in public water applications. "Lead Free" solder, flux and pipe must be used in all public drinking water applications as outlined in the 1986 Amendments to the Safe Drinking Water Act. "Lead Free" folder and flux are defined as containing less than 0.2% lead, while valves, pipes and appurtenances must contain less than 8.0% lead.
- 3.18.5 Hold Harmless - The Contractor agrees to protect, defend, indemnify, and hold harmless the City of Myrtle Beach, its officers, representatives, departments, agencies, employees, and agents, free and harmless from and against any and all claims, losses, damages, fines, penalties, demands, actions, suits, settlements, costs, charges, fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character in connection with the breach by the Contractor of any covenant or condition hereunder, or the negligence or willful misconduct of the Contractor or any of its employees or agents or the fault of the manufacturer of goods supplied by the Contractor. Contractor further agrees to investigate, handle, respond to, provide defense for, and defend at its expense, any claim, loss, or action arising out of or related to a breach of the contract and/or any related covenant or condition thereunder, and/or any negligence or willful misconduct of the Contractor, its employees or agents. This obligation shall extend to and include, all litigation costs, court costs, and reasonable attorney fees incurred by the City in response to such claims.
- 3.18.6 Failure to Enforce - Failure by the City at any time to enforce the provisions of the bid shall not be construed as a waiver of any provisions. The failure to enforce shall not affect the validity of any part of the bid

ARTICLE 4-ARCHITECT

Add the following:

- 4.1.1.2 "Engineer" - The Professional Engineering Firm representing the Owner.
- 4.2.1.2 In the Specifications or on the Drawings, where the words "as directed", "as required", "as approved", "as permitted" or words of like effect are used, Contractor shall understand that direction, requirement, approval or permission of Architect/Engineer is intended. Similar words "approved", "acceptable", "satisfactory", or words of like importance mean approved by, acceptable to or satisfactory to Architect/Engineer.
- 4.2.1.3 "As shown", "as indicated", "as detailed", or words of similar import refer to the Drawings unless stated otherwise.

Modify as follows:

4.2.1 First line following "----provide", add "general".

4.2.10 Delete this subparagraph and insert the following in lieu thereof:

"If a Project Representative is provided, his duties, responsibilities and limitations of authority shall be as set forth in DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY OF FULLTIME PROJECT REPRESENTATIVE, AIA DOCUMENT B352, latest edition, copy of which will be provided to Owner, Contractor and Project Representative."

ARTICLE 5 - SUBCONTRACTORS

Add the following:

5.1.3 "Supplier", - A manufacturer, fabricator, supplier, distributor, materialman, or vendor.

5.2.5 Should any Subcontractor fail to perform in accordance with the provisions of this Contract, the contractor shall be notified in writing to take proper corrective action, or the Owner may require that the Contractor terminate the subcontractor.

5.3.1 The Contractor shall assure the Owner, by affidavit or in such other manner as the Owner may approve, that all agreements between the Contractor and his Subcontractors incorporate the provisions of subparagraph 5.3 as necessary to preserve and protect the rights of the Owner and the Architect/Engineer under the Contract Documents with respect to the work to be performed by Subcontractors so that the subcontracting thereof will not prejudice such rights.

ARTICLE 7-CHANGES IN THE WORK

Add the following:

7.1.1.1 Change Orders are effective only after approval by the Owner and the Architect.

7.1.1.2 The Owner reserves the right to increase or decrease by 15% the quantity of any item or portion of the work, or to omit portions of the work as may be deemed necessary or advisable by the Owner and, also, to make such alterations or deviations, additions to, or omissions as may be deemed necessary during the progress of the work. Upon written order of the Owner, the Contractor shall proceed with the work as increased, decreased or altered.

7.1.3 All adjustments, if any, in the Contract price to be paid to Contractor because of any such change, alteration, deletion, addition, or extra work shall be made only to the extent and in the manner provided in the Contract Documents. Such alteration shall in no way affect, vitiate, or make void this Contract or any part thereof, except that such is necessarily affected by such alterations and is clearly the evident intention of the parties to this Contract. Any such work performed by the contractor prior to execution of the Change Order by the Owner shall be at the risk of the Contractor. In case of neglect or refusal by the Contractor to perform any extra work which may be authorized by the Owner, the Owner may employ any person or persons to perform such work and the Contractor shall not in any way interfere with the person or persons so employed.

7.1.4 When any changes decrease the amount of work to be done, such changes shall not constitute a basis or reason for any claim by Contractor for extra compensation or damages on account of any anticipated profits which he thereby loses on the omitted work, and Contractor shall not be entitled to any compensation or damages therefore.

7.1.4.1.1 In determining the cost or credit to the Owner resulting from a change in the work, the

allowances for overhead and profit combined, included in the total cost to the Owner, shall not exceed the percentages herein scheduled, as follows:

1. For Prime Contractor, for any work performed by his own forces, 15% of the cost;
2. For each Subcontractor involved, work performed by his own forces, 15% of the cost;
3. For the Prime Contractor, for work performed by his Subcontractor, 7% of the amount due the Subcontractor.

7.3.4.1 No work shall be performed by the Contractor on any unit price items beyond the quantity as set forth in the Contract, unless specifically approved by the Owner and directed by the engineer in writing to do so. It is anticipated that the quantities as set forth for such unit price items are reasonable and that said quantities will not be exceeded by more than 10%. The Contractor shall carefully study the Contract Documents to determine the extent and scope of the work included under lump sum items in the Contract. It may be that work under some of such unit price items is in addition to similar work to be performed under lump sum items and paid for thereunder.

7.3.6.1 The "cost" as used herein may include all items of labor or materials, the use of power tools and power equipment and all such items of cost as public liability, workmen's compensation insurance, pro rata charges for additional time of foreman, social security, and old age and unemployment insurance other than that mentioned above, supervision, travel, superintendence, timekeepers, clerks, watchmen, small tools, incidental job burdens and general office expense, and all other items not included in the cost as defined above.

7.3.6.2 In order that a proper determination may be made by the engineer of the cost of labor and materials incorporated into extra work, the Contractor shall furnish weekly an itemized statement of material and labor supplied, together with the cost vouchers for quantities and prices of such labor, materials or work. In the event the contractor fails to comply with the above provisions, no claim for compensation shall be made against the Owner.

ARTICLE 8-TIME

Add the following:

8.1.5 "Effective Date of 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.

Modify as follows:

8.3 Delay and Extension of Time:

8.3 Delay and Extension of Time: Delete in its entirety and substitute therefor the following:

8.3.1 Completion time stipulated under other sections of the Contract Documents may be extended by Change Order to provide one additional work day for each full work day that the Contractor is prevented from working by reason of one or more of the following causes:

1. Unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not limited to, catastrophes and/or acts of God, acts of another Contractor in the performance of a separate Contract with the Owner, epidemics, quarantine restrictions, strikes or freight embargoes;
2. An unusual amount of severe weather to such an extent as to be definitely abnormal and beyond conditions that may be reasonably anticipated. For the purpose of this contract, a total of three (3) working days per calendar month shall be anticipated as "normally bad or severe weather", and such time will not be considered justification for an extension of time.
3. For the purpose of this contract, a "bad or severe" weather day construed as "abnormal

and beyond conditions" shall be defined as receiving more than .50" of precipitation within a 24-hour period. It is incumbent on the Contractor to anticipate days with precipitation below .50" in a 24-hour period and therefore include the cost of an expedited construction schedule and/or overtime hours to not delay construction and to meet the construction time established in the Construction Documents.

4. Stoppage of work ordered by Owner or Architect/Engineer for reasons over which Contractor has no control.

The Contractor shall, within ten (10) days after the beginning of such delay notify the Owner and Architect/Engineer in writing of the cause of the delay. The contractor shall include with time extension request just-cause indicating how delay has affected critical path sequence of construction activities. The Architect/Engineer will then ascertain the facts and extent of delay, and notify the Contractor within (10) days of the Owner's decision in the matter. Notice of delay and requests for extension of time shall set forth the cause and number of additional working days' contractor desires contract extended.

Add the following:

8.3.1.1 EFFECT OF EXTENSION OF TIME

The granting of any extension of time on account of delays which in the judgment of the Owner are avoidable delays shall in no way operate as a waiver on the part of the Owner of its rights under this Contract.

- 8.3.2 No claims for extension of time will be considered when based on delays caused by conditions existing at the time bids were received and of which the contractor might be reasonably expected to have full knowledge at the time of bidding, or upon delays caused by failure on the part of the contractor to anticipate properly the requirements of the work contracted for as to materials, labor and equipment. All claims for extension of time shall be made in writing to the Architect/Engineer with the next application for payment; otherwise they shall be waived.

- 8.3.3 Completion date stipulated under other sections of the Contract Documents may be extended by Change Order to compensate for additional work that may be ordered by Owner, provided such work is over and beyond scope of work covered by original contract and is of such nature as to materially affect date of completion.

- 8.3.4 Avoidable delays in the prosecution or completion of the work shall include all delays which might have been avoided by the exercise of care, prudence, foresight or diligence on the part of the Contractor.

Delays in the prosecution of parts of the work, which may in themselves be unavoidable but do not necessarily prevent or delay the prosecution of other parts of the work nor the whole work within the time herein specified, will be deemed avoidable delays within the meaning of this Contract.

AVOIDABLE DELAYS: If the work called for under this Contract is not finished and completed in all parts and in accordance with all requirements, within the time specified for completion in the Contract Documents (including extensions of time granted because of unavoidable delay), or if at any time it shall appear to the Owner that the Contractor will be unable to finish and complete the work, the Owner may grant the contractor such extensions of time as the Owner deems in its best interest.

If such extension of time for Avoidable Delay is not granted, the provisions of the Contract Document, at the discretion of Owner, may be followed. However, at the option of the Owner and where the delay may be of such a duration not to inflict serious injury to the operations of the Owner in regard to the project, the Owner may assess liquidated damages for each calendar day delay exceeding the contract completion date. The sum of liquidated damages

on a per day basis will be stipulated in the Contract Documents.

- 8.3.5 Unavoidable delays in the prosecution or completion of the work under this Contract shall include all delays which may result through causes beyond the control of the Contractor and which he could not have prevented by the exercise of care, prudence, foresight or diligence. Orders issued by the Owner changing the amount of work to be done, the quantity of materials to be furnished, or the manner in which the work is to be prosecuted, failure of the Owner to provide rights-of-way and unforeseen delays in the completion of other contractors under contract with the Owner will be considered unavoidable delays, so far as they necessarily interfere with the Contractor's completion of the whole of the work. Delays due to adverse weather conditions, unless of an extreme nature such as hurricanes, floods, or tornados will not be regarded as unavoidable delays as the Contractor should understand that such conditions are to be expected and plan his work accordingly.

UNAVOIDABLE DELAYS: For delays which are unavoidable, as determined by the Owner, the Contractor will be allowed, upon Contractor application, an extension of time beyond the time specified for completion elsewhere in the Contract Documents, proportionate to the length of such unavoidable delay. No liquidation damages or engineering and inspection costs as are charged in the case of extensions of time for avoidable delays, will be assessed for unavoidable delays.

- 8.3.6 Whenever the Contractor anticipates or experiences any delay in the prosecution of the work he shall immediately notify the Owner and Engineer, in writing, of such delay and its cause in order that the Owner may take immediate steps to prevent, if possible, the occurrence or continuance of the delay, or, if this cannot be done, may determine whether the delay is to be considered avoidable or unavoidable, how long it continues, and to what extent the prosecution and completion of the work is to be delayed thereby.
- 8.3.7 After the completion of any part or the whole of the work, the Owner, in approving the amount due the Contractor, will assume that any and all delays which have occurred in its prosecution and completion have been avoidable delays, except such delays as shall have been called to the attention of the Owner at the time of their occurrence and later found by the Owner to have been unavoidable. The contractor will make no claims that any delay not called to the attention of the Owner at the time of its occurrence has been an unavoidable delay.
- 8.3.8 During unfavorable weather and other unfavorable conditions, the Contractor shall pursue only such portions of the work as shall not be damaged thereby. No portions of the work whose satisfactory quality or efficiency will be affected by an unfavorable condition shall be constructed while these conditions exist unless by special means or precautions approved by the Owner and Engineer.

ARTICLE 9-PAYMENT AND COMPLETION

Modify as follows:

- 9.3.1 Third line following "notarized", delete "if required".

Add the following:

- 9.3.1.3 The Architect/Engineer will authorize, as provided in Paragraphs 9.4 and 9.5, monthly payments equal to ninety (90%) percent of the portion of the contract sum properly allocable to labor, material and equipment incorporated in the work, and allocable to material and equipment suitably stored.
- 9.3.1.4 Contractor's Application for Payment, required for each project separately of a multi-project contract, shall be on Forms furnished by Architect/Engineer which shall include the following

statement:

Undersigned Contractor certifies by this Application for Payment has been completed in accordance with Contract Documents, that all amounts have been paid by him for Work for which previous Certificates for Payment were issued and payments received from Owner, and that current payment shown herein is now due.

Contractor:

By: _____ Date: _____

Subscribed and sworn to before me this:

Notary Public:

My Commission Expires: _____ Date: _____

Add the following:

9.1.1 "Application for Payment", - The Periodical Estimate for Partial Payment form which is to be used by Contractor in requesting progress or final payment and which is to include such supporting documentation as is required by the Contract Documents. A copy of the form is included with these Contract Documents.

9.3.2.1 Rental equipment such as, but not limited to, mobile equipment, pans, forms, scaffolding, compressors, etc., shall not be considered material stored.

9.6.2.1 The Contractor's attention is directed to Title 29, Chapter 7, Code of Laws of South Carolina, 1976, as amended, concerning labors' liens.

9.6.2.2 Release of retained funds: When the work to be performed on a state construction contract is to be performed by multiple prime contractors or by a prime contractor and multiple subcontractors, the work contracted to be done by each individual contractor or subcontractor will be considered a separate division of the contract for the purpose of retention. As each such division of the contract is certified as having been completed, that portion of the retained funds which is allocable to the completed division of the contract shall be released forthwith to the prime contractor, who shall, within ten days of its receipt, release to the subcontractor responsible for the complete work the full amount of any retention previously withheld from him by the prime contractor.

9.7.1 Nonresident contractor's attention is directed to Title 12, Chapter 9, Code of Laws of South Carolina 1976, as amended, concerning withholding tax on nonresident employees, contractors and subcontractors.

9.10.1.1 When the contractor is ready for final inspection, he shall give notice to the Architect/Engineer with a copy to the Owner in the following words:

The work on the contract for (show name of improvement or project as it appears in the Form of Agreement), having been fully completed, except as stipulated herein below, it is requested that a final inspection be made promptly by the Architect. The following work is incomplete through no fault or negligence of the Contractor: (List any work the contractor regards as exceptionable and after each item substantiate why its incompleteness is not due to his fault or negligence.)

No final inspection shall be made until such time as the Architect/Engineer and the Owner have received a letter in exact form indicated above.

- 9.10.2.1 Contractor shall submit to Architect/Engineer Contractor's Affidavit of Payment of Debts and Claims on AIA Document G706, latest edition, together with all supporting documents as called for thereon, including (as applicable):
1. Consent of Surety to Final Payment on AIA document G707, latest edition.
 2. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment. Submit in letter form under Contractor's letterhead.
 3. Separate Releases or Waivers of Liens from all Subcontractors and Materials and
 4. Equipment Suppliers on reproduction of form supplied by Architect/Engineer in contract documents. Accompany with a list thereof.
 5. Contractor's Affidavit of Release of Liens on AIA Document G706A, latest edition.
- 9.10.3.1 The balance payable under conditions stated shall reflect retainage for thrice the value of uncompleted work, as determined by the Architect/Engineer, but not more than 10% of the contract amount.

ARTICLE 10 - PROTECTION OF PERSONS AND PROPERTY

Add the following:

- 10.2.1 .4 The contractor shall protect his work, supplies, and materials from damage due to the nature of the work, the action of the elements, trespassers or any cause whatsoever, until the completion and acceptance of the work.
- 10.2.1.1 Unless otherwise indicated in the Contract Documents or unless otherwise taken care of by the Owner thereof, all utilities and all structures of any nature, whether below or above ground, that may be affected by the work shall be protected and maintained by the Contractor and shall not be disturbed or damaged by him during the progress of the work, provided that should the Contractor disturb, disconnect, or damage any utility or any structure, all expenses of whatever nature arising from such disturbance or the replacement or repair thereof shall be borne by the Contractor.
- 10.2.3.1 Use of Private Land. The Contractor shall not use any vacant lot or private land as a plant site, depository for materials, or as a spill site, or for any other purpose without the written authorization of the person(s) owning the property and the written approval of the Owner for the use of such property. A copy of the written Agreement between the property owner and the Contractor shall be provided to the Owner.
- 10.2.9 The Contractor shall observe and enforce the Owner's instructions regarding signs, advertisements, fires and smoke, unless such instructions are non-permissible in accordance within the jurisdiction of another authority.
- 10.2.10 PROTECTION OF PERSONS AND PROPERTY
1. The Contractor will be solely and completely responsible for conditions of the work site, including safety of all persons and property during performance of the work. This requirement will apply continuously and not be limited to normal working hours.
 2. The Contractor shall furnish such watchmen, guards, fences, warning signs, lights and walkways, and shall take all other precautions as shall be necessary to prevent damage to persons or property. All structures and improvements in the vicinity of the work shall be protected by the Contractor, and if such property is damaged, injured or destroyed by the Contractor, his employees, Subcontractors, or agents, it shall be restored to a condition as good as when he entered upon the work.
 3. The safety provisions of applicable laws, including but not limited to building and construction codes, shall be observed. Machinery, equipment, and all hazards shall be

eliminated or guarded in accordance with OSHA standards.

4. Any construction inspection conducted by the Owner and/or Engineer of the contractor's performance is not intended to include review of the adequacy of the Contractor's safety measures.

10.4.1 In the event of any emergency which threatens loss, damage or injury to persons or property, and which requires immediate action to remedy, the Owner, with or without notice to the Contractor, may provide suitable protection to the said property and persons by causing such work to be performed and such material to be furnished as shall provide such protection as the Owner may consider necessary and adequate. The cost and expense of such work and material so furnished shall be borne by the Contractor, and if the same shall not be paid on presentation of the bills therefore, such costs shall be deducted from any amounts due or to become due the Contractor.

The performance of such emergency work under the direction of the Owner shall in no way relieve the Contractor from any damages or liability which may arise during or after such precautions have been taken by the Owner.

10.5 The Contractor shall remove from the work site all rejected or condemned materials or structures of any kind brought to the work site or incorporated in the work. Upon his failure to do so, or to make satisfactory progress in so doing within forty-eight (48) hours after the service of a written notice from the Engineer or Owner, the rejected or condemned material or work may be removed by the Owner and the cost of such removal shall be subtracted from monies that may be due or may become due to the Contractor on account of or by virtue of this Contract. No such rejected or condemned material shall again be offered for use by the Contractor under this Contract.

ARTICLE 11 - INSURANCE AND BONDS

Delete Article in its entirety and substitute therefor the following:

"ARTICLE 11 - INSURANCE

11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase and maintain in a company or companies acceptable to the Owner such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

1. Claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts;
2. Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees;
3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees;
4. Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
5. Claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
6. 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.

11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than any limits of

liability specified in the contract documents, or required by law, whichever is greater.

- 11.1.2.1 Minimum limits of liability for following types of insurance are required (B.I. = Bodily Injury; P.D. = Property Damage; Limits are shown in thousands of dollars).
1. Workmen's Compensation, including:
 - a. Workmen's Compensation Insurance-Statutory
 - b. Employers' Liability -100 each occurrence form
 2. Comprehensive General Liability, including:
 - a. Premises and Operations, 1000 B.I.; 250 P.D.
 - b. Contractual/Owner's Liability, 1000 B.I.; 250 P.D.
 - c. Contractor's Protective Liability, 1000 B.I.; 250 P.D.
 - d. Products Liability, including Completed Operations Coverage, 1000 B.I.; 250 P.D.
 3. Comprehensive Automobile Liability, including:
 - a. All owned Automobiles, 1000 B.I.; 250 P.D.
 - b. Non-owned Automobiles, 1000 B.I.; 250 P.D.
 - c. Hired Car Coverage, 1000 B.I.; 250 P.D.
 - d. Any Auto (Code 1) and Contractual Liability (endorsement CA 0025)
- 11.1.2.2 In addition to Contractual Liability including indemnification provision Bodily Injury and Property Damage coverage under both Comprehensive General and Comprehensive Automobile forms shall include "occurrence" basis wording, which means an event, or continuous or repeated exposure to conditions which unexpectedly causes injury or damage during policy period.
- 11.1.2.3 Contractor shall either (a) require each of his Subcontractors to procure and maintain during the life of his contract, Subcontractors Comprehensive General Liability Insurance, Automobile Liability, and Property Damage Liability Insurance of the type and in the same amounts as specified in this Subparagraph, or (b) insure the activities of his Subcontractors in his own policy.
- 11.1.3 The insurance required by Subparagraph 11.1.1 shall include contractual liability insurance applicable to the Contractor's obligations under Paragraph 4.18.
- 11.1.3.1 CERTIFICATE OF INSURANCE MUST BE FILED THROUGH ARCHITECT/ENGINEER ON AIA DOCUMENT G705, LATEST EDITION, by an insurer authorized to do business in South Carolina by South Carolina State Insurance Commission. All blanks and questions on Certificate must be filled out completely. Incomplete or inadequate certificate will be returned to Contractor as unsatisfactory and commencement of his work will be delayed until satisfactory certificate is submitted. Such delay will not warrant extension of contract time.
- 11.1.4 Certificates of Insurance acceptable to Owner shall be filed with the Owner prior to commencement of the work. These certificates shall contain a provision that coverage afforded under the policies will not be canceled until at least thirty days' prior written notice has been given to the Owner.
- Add the following:
- 11.1.5 At the option of the Contractor, the limits of the primary general liability, automobile liability and employer's liability policies may be less than stipulated herein, with an excess policy providing the additional limits required. This form of coverage must be approved by the Owner and will only be acceptable when both the primary and excess policies include the coverages and

endorsements required herein.

- 11.1.6 Contractor's insurance shall be primary to any insurance or self-insurance maintained by the Owner, its officials, agents or employees, which is considered excess and non-contributing for the purpose of this Agreement."
- 11.1.7 Underwriters have no right of recovery of subrogation against the Owner for losses which result from work performed under this Agreement.
- 11.1.8 If at any time any of the foregoing policies shall be or become unsatisfactory to the Owner, as to form or coverage, or if a company issuing any such policy shall be or become unsatisfactory to the Owner, the Contractor shall, upon notice to that effect from the Owner, promptly obtain a new policy and submit the same for approval to the Owner. Upon failure of the Contractor to furnish, deliver and maintain the insurance coverages required herein, the Agreement, at the sole discretion of the Owner, may be forthwith declared suspended, discontinued or terminated. Failure of the contractor to take out and/or maintain any required insurance shall not relieve the Contractor from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Contractor concerning indemnification.

11.2 OWNER'S LIABILITY INSURANCE

- 11.2.1 The Contractor shall be responsible for purchasing and maintaining complete Owner's Protective Liability Insurance covering claims which may arise from operations under the Contract. The Contractor shall file a copy of all Owner's protective liability insurance policies with the Owner before any exposure to loss may occur. Limits shall be the same as specified for general liability and property damage insurance.

Modify the following:

11.3 PROPERTY INSURANCE

- 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain property insurance upon the entire work at the site to the full insurable value thereof. This insurance shall include the interests of the Owner, the Contractor, Subcontractors, Sub-subcontractors in the work and shall insure against the perils of fire, extended coverage, vandalism, glass breakage and malicious mischief. A deductible of \$100.00 shall apply to each loss resulting from vandalism, glass breakage and malicious mischief. The deductible shall be borne by the Contractor. This insurance does not cover any tools owned by mechanics, any tools, equipment, scaffolding, staging towers and forms owned or rented by the Contractor which are not intended to become part of the project. This insurance shall also not cover any loss by theft or burglary, or damage to the building or contents as a result of said theft or burglary. The interest of the Owner, the Contractor, Subcontractors, Sub-subcontractors in this insurance shall only be effective during the construction of the project and all rights and interest of the Contractor, Subcontractors in this insurance shall only be effective during the construction of the project and all rights and interest of the Contractor, Subcontractor, and Sub-subcontractors in this insurance shall end upon the acceptance of the project by the Owner. If applicable, the Owner shall provide and maintain Builders Risk coverage in an amount equal to 100% of the Project's completed value. Coverage shall include but not be limited to fire, lightning, windstorms, hail, smoke, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, vandalism, malicious mischief, glass breakage, falling objects, water damage, collapse, flood and earthquake. The policy shall include coverage, but not be way of limitation, for all damage or loss to the work and to appurtenances, materials and equipment to be used on the Project while same are stored on the work site or approved storage area. Coverage does not extend to any tools, equipment or materials which are not intended to become part of the Project. All losses will be adjusted with and be made payable to the Owner. The Owner shall provide the Contractor with a Certificate

of Insurance reflecting the foregoing, and that coverage will remain in effect until the Project has been accepted by the Owner. The policy shall be endorsed with a "Waiver of Occupancy" to allow the Owner to use the property during the Project.

- 11.3.2 The Owner shall purchase and maintain such boiler and machinery insurance as may be required by the Contract Documents or by Law. This insurance shall include the interest of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the work. The interest of the Contractor, Subcontractors and Sub-subcontractors in this insurance shall only be during the time of the construction of the project and all rights and interest in this insurance shall end upon acceptance of the project by the Owner.
- 11.3.3 Any insured loss is to be adjusted with the Owner and made payable to the Owner as trustee for the insured, as their interests may appear, subject to the requirements of any applicable mortgage clause.
- 11.3.4 The Owner shall file a certificate of all policies with the Contractor before an exposure to loss may occur. If the Owner does not intend to purchase such insurance, he shall inform the Contractor in writing prior to commencement of the work. The Contractor then shall effect insurance which shall protect the interest of himself, his subcontractors and the sub-subcontractors in the work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure of the Owner to purchase or maintain such insurance and so notifies the Owner, then the Owner shall bear all reasonable cost appropriately attributable thereto.
- 11.3.5 If the Contractor requests in writing that insurance for special hazards be included in the Property Insurance Clause, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.
- 11.3.6 The Owner and Contractor waive all rights against each other for damages caused by fire and other perils to the extent covered by insurance provided under Paragraph 11.3 except such rights as they may have to the proceeds of such insurance held by the Owner as trustee. The Contractor shall require similar waivers by Subcontractors and Sub-subcontractors in accordance with clause 5.3.1.1. This waiver does not apply to any defects due to faulty material or workmanship by the Contractor. The Subcontractors or Sub-subcontractors and the Contractor shall remedy any defects due to such faulty materials or workmanship and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of acceptance as defined in the general conditions and in accordance with the terms of any special guarantees provided in the contract. The Owner shall give notice of observed defect within ninety days of the time they were observed or should have been observed.
- 11.3.7 If required in writing by any party in interest, the Owner as trustee shall, upon the occurrence of an insured loss, deposit in a separate account any money received for such loss, and he shall distribute it in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made, replacement of damaged work shall be covered by an appropriate Change Order.
- 11.3.8 The Owner as trustee shall have the power to adjust and settle with the insurers.
- 11.3.9 If the Owner finds it necessary to occupy or use a portion or portions of the work prior to substantial completion thereof, such occupancy shall not commence prior to a time mutually agreed to by the Owner and Contractor and to which the insurance company or companies providing the property insurance shall not be canceled or lapsed on account of such partial occupancy. Consent of the Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.
- 11.3.10 Any wall or steel construction during this period of coverage must be properly braced,

regardless of plans or specifications otherwise, to prevent damage from wind. Any alleged damage must be inspected by a Representative of the Fund, prior to any cleaning or repair. Liability will not be accepted by the Fund if provisions of this Endorsement are not complied with.

- 11.4.1 Delete Subparagraph 11.41 in its entirety and substitute the following therefor: "A Performance Bond and Labor and Material Payment Bond are required. The Contractor shall obtain a Performance Bond and Labor and Material Payment Bond, acceptable to the Owner in a surety company authorized to do business in the state in which the Project is constructed. The Performance Bond shall be in an amount equal to One Hundred Percent (100%) of the full amount of the Contract Sum as security for the faithful performance of the Contract Documents, and the Labor and Material Payment Bond shall be in an amount equal to One Hundred Percent (100%) of the full amount of the Contract Sum as security for the payment of all persons performing labor and furnishing materials in connection with the Contract Documents. Such bonds shall be on forms approved by the Owner and shall name the Owner as a primary co-obligee. The bonds shall guarantee the Contractor's faithful performance of the Contract and the payment of all obligations arising thereunder. The bonds shall remain in force until (1) the Project has been completed and accepted by the Owner, (2) the provisions of all guarantees required by these Contract Documents have been fulfilled, and the time limitation for all guarantees has expired, or (3) until the time for the filing of all mechanic's liens has expired, whichever is longer, after which it shall become void. The Contractor shall pay all changes in connection with these bonds as a part of the Contract. One executed copy of the bonds shall be attached to each copy of the Contract before they are returned to the Architect for the Owner's signature. These bonds shall be written on AIA Document A-311, latest edition. A current Power of Attorney shall be attached to each bond.

Add the following:

- 11.4.1.1 Failure of any named insured to comply with the reporting requirements of the policy shall not affect the coverage provided to the Owner as an additional insured.

ARTICLE 12 - UNCOVER AND CORRECT

Add the following:

- 12.2.1.1 "Defective", - An adjective which when modifying the word Work refers to Work that is unsatisfactory, faulty, or deficient, or does not conform to the Contract Documents or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to Engineer's recommendation of final payment.

ARTICLE 13 - MISCELLANEOUS PROVISIONS

Add the following:

- 13.1.1 Add the following: By executing a contract for the Project the Contractor agrees to submit itself to the jurisdiction of the courts of the State of South Carolina for all matters arising or to arise hereunder, including but not limited to performance of said contract and payment of all licenses and taxes of whatever nature applicable thereto.
- 13.5.2.1 Materials subject to test shall be inspected by a testing agency selected by the Architect/Engineer and satisfactory to the Owner. The Contractor shall defray the cost of tests conducted pursuant to laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; the cost of test conducted for his own information and in his own interest; and the cost of tests which are named in the Technical Sections of the Specifications as tests to be paid for by the Contractor.

- 13.5.7 Properly authorized inspectors shall be considered to be the representatives of the Owner, limited to the duties and power entrusted to them. Inspectors shall be authorized to inspect materials and workmanship of those portions of the work to which they are assigned, either individually or collectively, and under instructions of the Engineer and Owner are to report any and all deviations from the Contract Documents which may come to their notice. Any inspector shall have the right to order the work stopped if, in his judgment, such action is necessary to (a) allow proper inspection, (b) avoid irreparable damage to the work, or (c) avoid subsequent condemnation of work which could not be readily replaced or restored to an acceptable condition. Such stoppage shall be for a period reasonably necessary for a determination by the Engineer that the work will in fact proceed in due fulfillment of all Contract requirements.

Delete the following:

- 13.6 Interest

Add the following:

13.8 REGULATORY REQUIREMENTS

- 13.8.1 Compliance with EEOC and other State and Federal Laws: To the extent set forth in the respective statutes, Provider shall comply with the provisions of:
- 13.8.2 Title VII of the Civil Rights Act of 1964;
- 13.8.3 Age Discrimination in Employment Act of 1967;
- 13.8.4 Title I of the Americans with Disabilities Act of 1990;
- 13.8.5 Equal Pay Act of 1963;
- 13.8.6 Fair Labor Standards Act of 1938;
- 13.8.7 Immigration Reform and Control Act of 1986; and
- 13.8.8 South Carolina Wages Act, S.C. Code § 37-10-10 *et seq.*
- 13.8.9 South Carolina Worker's Compensation Act, S.C. Code § 42-1-10 *et seq.*
- 13.8.10 South Carolina Illegal Immigration Reform Act, including without limitation Chapters 14 & 29, Title 8, and Chapter 8, Title 41, S.C. Code of Laws.
- 13.8.11 Part 681, Title 16 of the Code of Federal Regulations, Sections 114 and 315 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003; the South Carolina Act 190 of 2008; Financial and Identity Theft Protection Act; and the Horry County Privacy / Identity Theft Policy.

ARTICLE 14 - TERMINATION OR SUSPENSION OF THE CONTRACT

- 14.2.1 Add the following: ".5 If at any time, any part of the Contractor's plant or equipment or any of his methods of execution of the work appear to the Owner or the Engineer to be unsafe, inefficient or inadequate to insure the required quality or rate of progress of the work, he may order the Contractor to increase or improve his facilities or methods and the Contractor shall comply promptly with such orders; but neither compliance with such orders nor failure of the Engineer or Owner to issue such orders shall relieve the Contractor from his obligation to secure the degree of safety, the quality of the work and the rate of progress required. The

contractor alone shall be responsible for the safety, adequacy and efficiency of his plant, equipment and methods.

If the Contractor fails to promptly comply with the order of the Owner or Engineer issued in accordance with this Paragraph, the Owner shall have the right to terminate the Contract.”

- 14.2.2.4 Termination for Default - The performance of work under this bid may be terminated by the City in whole, or in part, upon non-performance, violation of contract terms, delivery failure, bankruptcy or insolvency, or whenever the City determines that termination is in the City’s best interest. Any such termination shall be communicated by a written notice of default, delivered to the Bidder, at least fifteen calendar (15) days before the date of termination, specifying the extent to which performance of the work is terminated, and the date upon which such termination becomes effective. The City of Myrtle Beach shall be entitled to recover all fees, costs, claims, or damages incurred as a result of the Contractor’s breach of this Agreement, including reasonable attorney’s fees and costs of legal action instituted by the City to collect such fees, costs, claims, or damages.

If the City, in its discretion, determines that the Contractor’s breach constitutes a threat to public health, safety, or welfare of any person, or causes willful or negligent damage to City property, the City may terminate the contract immediately, without cure or show cause, effective upon notice in writing to the Contractor. In addition to any other remedies provided by law, the Contractor shall be responsible for all costs incurred by the City as a result of the Contractor’s breach and termination, including any costs to obtain substitute performance.

- 14.3.2.1 Add the following paragraph: ".3 that extended overhead exceeds five working days when the Owner in writing stops work for his convenience or a natural disaster. Extended overhead is denied for change orders, change directives, and other delays."

- 14.4.2.4 Termination for Convenience. - The City of Myrtle Beach reserves the right to terminate the contract with the Contractor when it is in the best interest of the City. If the contract is so terminated, the City shall provide the Contractor with thirty (30) calendar days’ written notice and shall compensate the Contractor for all necessary and reasonable direct costs of performing the services actually accomplished as of the date of termination. No other costs shall be allowed for a termination for convenience. No damages shall be allowed for a termination of convenience.

ARTICLE 15 – CLAIMS AND DISPUTES

- 15.2 Add the following subparagraph:

- 15.2.7.1 **Notifications of Surety Companies:** The Contractor shall advise the surety companies and other signers of the bonds listed above to familiarize themselves with all of the conditions and provisions of this Contract, and they shall waive the right of special notification of any change or modification to this Contract or of extension of time, or of decreased or increased work, or of the cancellation of the Contract or of any other act or acts by the Owner or its authorized employees and agents, under the terms of this Contract and failure to so notify the aforesaid surety companies of changes shall in no way relieve the surety companies of their obligations under this Contract.

- 15.2.9 Any controversy or claim arising out of or related to the Contract or the breach thereof will be settled in accordance with the laws of the State of South Carolina.

15.3 Omit Article 15.3 Mediation and 15.4 Arbitration in its entirety and substitute the following:

Article 15.3 Mediation/Arbitration.

Shall be modified as follows: Disputes Resolutions: All claims, disputes, and other matters in questions between the parties to this Agreement, arising out of or relating to this Agreement of the breach thereof, shall be tried before a Circuit Judge or Master in Equity of Horry County without a jury. The contractor hereby waives its right to a jury trial and agrees that the venue of the action will be in Horry County, South Carolina. Any legal proceedings arising out of or relating to this Agreement shall include, by consolidation, joinder or joint filing, any additional person or entity not a party to this agreement to the extent necessary to the final resolution of the matter in controversy. Owner shall include the same disputes resolution and consolidation provisions in the owner's contractor (or construction manager) agreement and shall provide that similar provisions be included in contractor or subcontractor agreements.

Add the following:

"ARTICLE 16 - ABBREVIATIONS

16.1 Wherever abbreviations are used in this Contract Document; each such abbreviation shall have the following listed meaning:

UNIT OF MEASURE

CY	Cubic Yard
Ft.	Feet
Lbs.	Pounds
M	One Thousand
MFBM	One Thousand Feet Board Measure
C	Centigrade
F	Fahrenheit
HP	Horsepower
KVA	Kilovolt Ampere
BTU	British Thermal Unit
LF	Linear Feet

TYPES AND UNITS

DI	Ductile Iron
PVC	Polyvinyl Chloride
HDPE	High Density Polyethylene
MJ	Mechanical Joint
B & S	Bell and Spigot
T & G	Tongue and Groove
SS	Single Strength
DS	Double Strength
VC	Vitrified clay
RC	Reinforced Concrete
MH	Manhole
CB	Catch basin
ES	Extra Strength

ORGANIZATIONS AND PUBLICATIONS

AIEE	American Institute of Electrical Engineers
------	--

ASA	American Standards Associates, Inc.
NBFU	National Board of Fire Underwriters
NEC	National Electrical Code
PCA	Portland Cement Association”

END OF SECTION 00800



**CITY OF MYRTLE BEACH
LOCAL VENDOR PREFERENCE**

**TO QUALIFY FOR LOCAL PREFERENCE
FORM MUST BE SUBMITTED WITH BID**

First in Service

APPLICATION OF ELIGIBILITY TO QUALIFY FOR LOCAL VENDOR PREFERENCE WITHIN THE DEFINED BOUNDARIES: MYRTLE BEACH CITY LIMITS, HORRY COUNTY, NESA AREA (NESA area is comprised of Horry, Georgetown, Williamsburg, Florence, Marion, Darlington, Dillon, Chesterfield, and Marlboro Counties).

City of Myrtle Beach Business License: (To qualify for Local Vendor Preference vendor must have had a **City of Myrtle Beach Business License** a minimum of ninety (90) days prior to the request for bid/ proposal being made public)

City of MB Business License Number: _____ Date issued: _____
***NOT Horry County License Number**

Complete all areas below. Incomplete forms may be rejected.

1. LEGAL NAME OF BUSINESS: _____

Mailing Address: _____

Physical Address: _____
(To qualify vendor must have maintained

a physical address and office as a principal place of business within the defined boundaries of the category sought for at least one (1) year, and during that time have had a majority of full-time employees, chief officers and managers regularly conducting work and business from this office.)

2. Year business was established in the City of Myrtle Beach / Horry County / NESA area:

Year: _____ County: _____
(Name of County)

Under penalty of perjury, the undersigned states that the foregoing statements are true and correct. The undersigned also acknowledges that any person, firm, corporation or entity intentionally submitting false information to the City in an attempt to qualify for local preference shall be prohibited from bidding on City of Myrtle Beach products and services for a period of one (1) year.

Authorized Signature: _____

Date: _____

Printed Name & Title: _____

Phone: _____

LOCAL VENDOR PREFERENCE continued

<u>Bid Amount</u>	<u>Within City Limits</u>	<u>Within Horry County</u>	<u>Within NESAs Area</u>
Up to \$5000.00	5% of Bid	4% of Bid	3% of Bid
\$5001.00 to \$10,000.00	\$250.00 plus 4% of amount between \$5001.00 and \$10,000.00	\$200.00 plus 3% of amount between \$5001.00 and \$10,000.00	\$150.00 plus 2% of amount between \$5001.00 and \$10,000.00
\$10,001.00 and up	\$450.00 plus 3% of amount above \$10,000.00 with the maximum being \$2000.00, including the \$450.00	\$400.00 plus 2% of amount above \$10,000.00 with the maximum being \$1800.00, including the \$400.00	\$300.00 plus 1% of amount above \$10,000.00 with the maximum being \$1600.00, including the \$300.00

If company/individual performs services on City property a Certificate of Insurance **must be** provided prior to commencement of work meeting requirements of the City.

The vendor must submit a copy of their Local Vendor Preference Certificate with their bid.

An eligible business shall maintain such status throughout the term of any contract with the City. Failure to maintain such status or to keep current on all fees and taxes owed the City shall be grounds to terminate the contract.

DOCUMENT 002217 - LOCAL VENDOR PREFERENCE (LVP)

1.1 LOCAL VENDOR PREFERENCE INFORMATION

- A. Established by ordinance, the Local Vendor Preference Program allows the city to grant contracting preferences to local businesses in circumstances when price alone determines the winning bid for personal property, non-professional services, and construction services, and the procurement is governed by the Myrtle Beach Local Government Code. Under the program, a business within Myrtle Beach city limits, Horry County or surrounding Counties known as the NESAs area will be evaluated at a lower percentage than the actual amount of the bid, provided they meet all the requirements. The vendor must have a current City of Myrtle Beach Business License a minimum of ninety (90) days prior to the bid date, must have maintained a physical address within the defined boundaries for a period of at least one (1) year and during that time have had a majority of full-time employees and manager's conduction work from this office. Additionally, provisions were included in the original ordinance granting preferences to local businesses for professional service contracts that are not governed by statute.
- B. Exceptions
1. The LVP does not apply to any contract funded in whole or in part by the federal government or where the city acts as a conduit for federal money.
 2. The LVP does not apply to contracts where the Managing Department or City Council has determined that it would not be in the best interest of the city.
 - a. Note: A local business (a.k.a. a city business) is defined as a business headquartered within the incorporated Myrtle Beach city limits.
- C. City Business License and Insurance
1. Any vendor doing business within the City of Myrtle Beach is required to have a current City of Myrtle Beach Business License.
 2. Any vendor doing business on city property is required to have a Certificate of Insurance on file meeting city requirements.

END OF DOCUMENT 002217

002218 - BIDDER'S REPRESENTATION

By the act of submitting a bid for the proposed contract, the Bidder represents that:

1. The Bidder and all subcontractors the Bidder intends to use have carefully and thoroughly reviewed the Contract Documents and have found them complete and free from ambiguities and sufficient for the purpose intended; and
2. The Bidder and all workmen, employees and subcontractors the Bidder intends to use are skilled and experienced in the type of work represented by the Contract Documents; and
3. Neither the Bidder nor any of the Bidder's employees, agents, intended suppliers or subcontractors have relied upon any verbal representations, of the Owner, or the Owner's employees or agents including architects, engineers or consultants, in assembling the bid; and
4. The bid figure is based solely upon the Contract Documents and not upon any other oral or written representation.

By: _____

Title: _____

Subscribed and sworn to before me

this _____ day of _____, 20____.

My commission expires on: _____.

002219 - NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of South Carolina)
County of Horry)

being first duly sworn, deposes and says that:

(1) He is _____ of _____,
the Bidder that has submitted the attached Bid:

(2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid:

(3) Such Bid is genuine and is not a collusive or sham Bid;

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Owners or any person interested in the proposed Contract; and

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) _____

(Title)

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

_____. My commission expires

_____ on: _____ (Title)_____

002220 - STATEMENT OF LICENSE CERTIFICATE

EACH CONTRACTOR BIDDING SHALL FILL IN AND SIGN THE FOLLOWING:

This is to certify that _____ have fully complied with all the requirements of the South Carolina Licensing Board for Contractors. The Contractor's license number and date of registration shall appear on the envelope containing the bid, otherwise the bid may not be considered.

_____ was issued Certificate No. _____
on _____, 20 _____ by the State Board for licensing General Contractors.

Signed: _____

Title: _____

002221 - STATEMENT OF EXPERIENCE OF THE BIDDER

The bidder is requested to state below what work of similar scope and complexity he has completed, and to give references that will enable the Owner to judge his experience, skill and business standing and his ability to conduct the work as completely and as rapidly as required under the terms of the contract.

	<u>Project and Location</u>	<u>Reference</u>
1)	_____	_____
	_____	_____
2)	_____	_____
	_____	_____
3)	_____	_____
	_____	_____
4)	_____	_____
	_____	_____
5)	_____	_____
	_____	_____
6)	_____	_____
	_____	_____
7)	_____	_____
	_____	_____

Dated: _____ Bidder: _____

Signed: _____

Title: _____

002222 - PROJECT SUPERINTENDENCE

The Undersigned states that the following employee will assume the role of project superintendent representing the Contractor on this Project. The undersigned further states that this individual, whose qualifications are presented below (attach additional sheets, if necessary), will have authority to speak for the Contractor and will not be removed from this Project or temporarily substituted for on this Project without the written consent of the Owner and Project Engineer.

Project Superintendent's Name: _____

Years of Experience: _____

Brief but Complete Description of Experience Relevant to this Project: _____

References from Owners where work of similar scope, and complexity has been accomplished under Proposed Superintendent's direct supervision.

1. _____ 2. _____ 3. _____ 4. _____ 5. _____

(Phone) (Phone) (Phone) (Phone) (Phone)

"I consent to the disclosure of my qualifications and other applicable personal data for the purpose of evaluating proposals under this solicitation."

Employee's Signature

Date

"I certify to this employee's role in this Project and that the qualifications presented herein are accurate, complete and current."

Bidder: _____ Date: _____

Signed: _____

Title: _____

FORM 002224 - BID BOND

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned,

_____ as PRINCIPAL, and

_____ as SURETY are hereby held and firmly bound

unto _____, as OWNER, in the penal sum of

_____, for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that Whereas the Principal has submitted to the City of Myrtle Beach a certain BID, attached hereto and hereby made a part hereof to enter into a contract in writing, for the

NOW, THEREFORE,

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID,

then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

THE SURETY, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

_____(L.S.)
Principal

Surety

By: _____

Date: _____

IMPORTANT - Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

DOCUMENT 002513 - PREBID MEETINGS

1.1 PREBID MEETING

- A. Architect will conduct a Pre-bid meeting as indicated below:
1. Meeting Date: Tuesday October 25, 2022
 2. Meeting Time: 10:00 AM local time.
 3. Location: City of Myrtle Beach Public Works Administration Office, 3210 Mr. Joe White Ave, Myrtle Beach, SC 29577.
- B. Attendance:
1. Prime Bidders: Attendance at Pre-bid meeting is **mandatory**.
 2. Subcontractors: Attendance at Pre-bid meeting is recommended.
 3. Notice: Bids will only be accepted from prime bidders represented on Pre-Bid Meeting sign-in sheet.
 4. When Bidders are required to make site visits or attend mandatory pre-bid meetings, all expenses shall be paid for by the Bidder, unless previous written arrangements are made with the City.
 5. Bidder must be physically present at the sign-in location with the Buyer at the start of the scheduled meeting time. The official start of each pre-bid meeting will be determined by the Buyer with an announcement of the time and the final closing for contractors to sign-in. Any contractor arriving after the declared time announcement and closing of sign-in shall not be admitted to the pre-bid meeting, and any bid received shall be considered non-responsive.
- C. Agenda: Pre-bid meeting agenda will include review of topics that may affect proper preparation and submittal of bids, including the following:
1. Procurement and Contracting Requirements:
 - a. Instructions to Bidders.
 - b. Bidder Qualifications.
 - c. Bonding.
 - d. Insurance.
 - e. Bid Security.
 - f. Bid Form and Attachments.
 - g. Bid Submittal Requirements.
 - h. Bid Submittal Checklist.
 - i. Notice of Award.
 2. Communication during Bidding Period:
 - a. Obtaining documents.
 - b. Access to Project Web site, if applicable.
 - c. Bidder's Requests for Information.
 - d. Bidder's Substitution Request/Prior Approval Request.
 - e. Addenda.
 3. Contracting Requirements:
 - a. Agreement.
 - b. The General Conditions.

- c. The Supplementary Conditions.
 - d. Other Owner requirements.
4. Construction Documents:
- a. Scopes of Work.
 - b. Temporary Facilities.
 - c. Use of Site.
 - d. Work Restrictions.
 - e. Alternates, Allowances, and Unit Prices.
 - f. Substitutions following award.
5. Separate Contracts:
- a. Work by Owner.
 - b. Work of Other Contracts.
6. Schedule:
- a. Project Schedule.
 - b. Contract Time.
 - c. Liquidated Damages.
 - d. Other Bidder Questions.
7. Site/facility visit or walkthrough.
8. Post-Meeting Addendum.
- D. Minutes: Entity responsible for conducting meeting will record and distribute meeting minutes to attendees and others known by the issuing office to have received a complete set of Procurement and Contracting Documents. Minutes of meeting are issued as Available Information and do not constitute a modification to the Procurement and Contracting Documents. Modifications to the Procurement and Contracting Documents are issued by written Addendum only.
- 1. Sign-in Sheet: Minutes will include list of meeting attendees.
 - 2. List of plan holders: Minutes will include list of plan holders.

END OF DOCUMENT 002513

DOCUMENT 004113 - BID FORM - STIPULATED SUM (SINGLE-PRIME CONTRACT)

1.1 BID INFORMATION

- A. Bidder: _____.
- B. Project Name: Root Control 2022
- C. Project Location: Various Locations within the City of Myrtle Beach
- D. Owner: CITY OF MYRTLE BEACH, SOUTH CAROLINA.
- E. Owner Project Number: Bid # 23-B0010

1.2 CERTIFICATIONS AND BASE BID

- A. Base Bid, Single-Prime (All Trades) Contract: The undersigned Bidder, having carefully examined the Procurement and Contracting Requirements, Conditions of the Contract, Drawings, Specifications, and all subsequent Addenda, as prepared by the City of Myrtle Beach, having visited the site, and being familiar with all conditions and requirements of the Work, hereby agrees to furnish all material, labor, equipment and services, including all scheduled allowances, necessary to complete the construction of the above-named project, according to the requirements of the Procurement and Contracting Documents, for the stipulated Lump sum of:

1. _____ Dollars
(\$_____).

1.3 BID GUARANTEE

- A. The undersigned Bidder agrees to execute a contract for this Work in the above amount and to furnish surety as specified within 10 days after a written Notice of Award, if offered within 60 days after receipt of bids, and on failure to do so agrees to forfeit to Owner the attached cash, cashier's check, certified check, U.S. money order, or bid bond, as liquidated damages for such failure, in the following amount constituting five percent (5%) of the Base Bid amount above:

1. _____ Dollars
(\$_____).

- B. In the event Owner does not offer Notice of Award within the time limits stated above, Owner will return to the undersigned the cash, cashier's check, certified check, U.S. money order, or bid bond.

1.4 Alternates

- A. Description of Alternates herein are for identification purposes only; the Work to be performed under the particular Alternate(s) is described in Division 1 - General Requirements - Section 012300 "Alternates" of this Project Manual.

*The Owner shall have the right to accept Alternates in any order or combination, and to determine the low bidder on the basis of the sum of the Base Bid and alternates accepted.

1.5 THE FOLLOWING SUBCONTRACTORS ARE LISTED:

The following companies shall execute subcontracts for the portions of the Work indicated:

Name, Address, Phone and Email Address
Name, Address, Phone and Email Address
Name, Address, Phone and Email Address
Name, Address, Phone and Email Address
Name, Address, Phone and Email Address
Name, Address, Phone and Email Address

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

Root Control Bid Tab

Pipe Size	Price per Linear Foot	Est Total
6 inch		
8 inch		
10 inch		
12 inch		
15 inch		
Total		

A. **TIME OF COMPLETION:** If notified of the acceptance of the Bid or any Alternate Bids within thirty (30) days after the date fixed for opening of the Bids, the undersigned agrees to execute and deliver the specified contract and contractor's bonds within ten (10) days. The undersigned agrees, if awarded the contract within thirty (30) days from the date fixed for opening of bids, will commence the work required by the CONTRACT DOCUMENTS within TEN (10) calendar days after the date of the NOTICE TO PROCEED and will complete faithfully and properly the work no later than forty-five (45) calendar days from the date of commencement (NTP, Notice to Proceed), or unless the period of completion is extended otherwise by the CONTRACT DUCUMENTS; all work consistent with the best interest of the Owner, the safety of the public and in accordance with first-class workmanship.

B. **Contract Length:**

This will be a forty-five (45) day length contract.

C. **Project Requirements:** Prior to the commencement of the Project, the City will conduct a Pre-Con with all parties involved. The contractor will provide a Point of Contact/Superintendent for the Project. The City is requesting a log sheet providing the amount of **Root Control Product** used per line segment and the equipment hours for each day. The Contractor will need to provide a daily schedule of the work for that day, and what was completed form the previous day.

D. **LIQUIDATED DAMAGES:** Should the Contractor fail to substantially complete the work under this contract within the stipulated time as he has set forth in "Time of Completion" paragraph above, plus any additional days that may result from extension of time granted by the Architect/Engineer, he agrees that the Owner may retain the sum of \$500 per day for each succeeding calendar day that the Owner is deprived of full use of any or all phases of the project. This amount is agreed upon as a reasonable and proper measure of Liquidated Damages which the Owner sustains per day by failure of the contractor to complete the work within the time stipulated; it being recognized by the Owner, the Contractor, and the Architect that the injury to the Owner which could result from failure by the contractor to complete on schedule is uncertain and insusceptible to certain computation, and this sum is not to be construed in any sense as a penalty.

1.7 **ACKNOWLEDGEMENT OF ADDENDA**

A. The undersigned Bidder acknowledges receipt of and use of the following Addenda in the preparation of this Bid:

Addendum No. 1, dated _____.

Addendum No. 2, dated _____.

1.8 BID SUPPLEMENTS

A. The following supplements are a part of this Bid Form and are attached hereto.

Bid Form Supplement - Allowances.

Bid Form Supplement - Bid Bond Form (AIA Document A310).

Bid Form Supplement - Bid Bond OR a certified check for the amount required.

Bid Form Supplement - Bidder's Representation.

Bid Form Supplement - Non-Collusion Affidavit of Prime Bidder.

Bid Form Supplement - Statement of Experience of the Bidder.

Bid Form Supplement - Project Superintendence.

1.10 CONTRACTOR'S LICENSE

A. The undersigned further states that it is a duly licensed contractor, for the type of work proposed, in Myrtle Beach, South Carolina, and that all fees, permits, etc., pursuant to submitting this proposal have been paid in full.

1.10 SUBMISSION OF BID

A. Respectfully submitted this ____ day of _____, 2021.

B. Submitted by _____ (Name of bidding firm or corporation).

C. Authorized Signature: _____ (Handwritten signature).

D. Signed by: _____ (Type or print name).

E. Title: _____ (Owner/Partner/President/Vice President).

F. Witness by: _____ (Handwritten signature).

G. Attest: _____ (Handwritten signature).

H. By: _____ (Type or print name).

I. Title: _____ (Corporate Secretary or Assistant Secretary).

J. Street Address: _____.

K. City, State, Zip _____.

L. Phone: _____.

M. License No.: _____.

N. Federal ID No.: _____ (Affix Corporate Seal Here).

END OF DOCUMENT 004113

DOCUMENT 004313 - BID SECURITY FORMS

1.1 BID FORM SUPPLEMENT

- A. A completed bid bond form is required to be attached to the Bid Form.

1.2 BID BOND FORM

- A. AIA Document A310, "Bid Bond," is the recommended form for a bid bond. A bid bond acceptable to Owner, or other bid security as described in the Instructions to Bidders, is required to be attached to the Bid Form as a supplement.
- B. Copies of AIA standard forms may be obtained from The American Institute of Architects; www.aia.org/contractdocs/purchase/index.htm; email: docspurchases@aia.org; (800) 942-7732.

END OF DOCUMENT 004313

DOCUMENT 004393 - BID SUBMITTAL CHECKLIST

1.1 BID INFORMATION

- A. Bidder: _____.
- B. Prime Contract: _____.
- C. Project Name: Root Control 2022
- D. Project Location: Various Locations, City of Myrtle Beach.
- E. Owner: City of Myrtle Beach, South Carolina
- F. Owner Project Number: 23-B0010

1.2 BIDDER'S CHECKLIST

- A. In an effort to assist the Bidder in properly completing all documentation required, the following checklist is provided for the Bidder's convenience. The Bidder is solely responsible for verifying compliance with bid submittal requirements.
- B. Attach this completed checklist to the outside of the Submittal envelope.
 - 1. Used the Bid Form provided in the Project Manual.
 - 2. Prepared the Bid Form as required by the Instructions to Bidders.
 - 3. Indicated on the Bid Form - Unit Prices.
 - 4. Attached to the Bid Form - Bid Bond OR a certified check for the amount required.
 - 5. Attached to the Bid Form - Bidder's Representation.
 - 6. Bid envelope shows name and address of the Bidder.
 - 7. Bid envelope shows the Bidder's Contractor's License Number.
 - 8. Bid envelope shows name of Project being bid.
 - 9. Bid envelope shows name of Prime Contract being bid, if applicable.
 - 10. Attached to the Bid form - Non-Collusion Affidavit of Prime Bidder.
 - 11. Attached to the Bid Form - Statement of License Certificates.
 - 12. Attached to the Bid Form - Statement of Experience of the Bidder.
 - 13. Attached to the Bid Form - Project Superintendence.
 - 14. Bid envelope shows time and day of Bid Opening.
 - 15. Verified that the Bidder can provide executed Performance Bond and Labor and Material Bond.
 - 16. Verified that the Bidder can provide Certificates of Insurance in the amounts indicated.

END OF DOCUMENT 004393

DOCUMENT 005100 - NOTICE OF AWARD

1.1 BID INFORMATION

- A. Bidder:
- B. Bidder's Address:
- C. Project Name: Root Control 2022
- D. Project Location: Various locations within the City of Myrtle Beach
- E. Owner: City of Myrtle Beach, South Carolina.
- F. Owner Project Number: 23-B0010

1.2 NOTICE OF AWARD OF CONTRACT

- A. Notice: The above Bidder is hereby notified that their bid, dated <Insert date>, for the above Contract has been considered and the Bidder is hereby awarded a contract for <Insert brief description of Work or sections of Work awarded>.
- B. Alternates Accepted: The following alternates have been accepted by Owner and have been incorporated in the Contract Sum:
- C. Sum: The Contract Sum is <Insert written amount> dollars (\$<Insert numeric amount>).

1.3 EXECUTION OF CONTRACT

- A. Contract Documents: Copies of the Contract Documents will be made available to the Bidder immediately. The Bidder must comply with the following conditions precedent within [10] days of the above date of issuance of the Notice:
 - 1. Deliver to Owner [three] sets of fully executed copies of the Contract Documents.
 - 2. Deliver with the executed Contract Documents Bonds and Certificates of Insurance required by the Contract Documents.
 - 3. <Insert conditions precedent>.
- B. Compliance: Failure to comply with conditions of this Notice within the time specified will entitle Owner to consider the Bidder in default, annul this Notice, and declare the Bidder's Bid security forfeited.
 - 1. Within [10] days after the Bidder complies with the conditions of this Notice, Owner will return to the Bidder one fully executed copy of the Contract Documents.

1.4 NOTIFICATION

- A. This Notice is issued by:
 - 1. Owner: _____.

2. Authorized Signature: _____ (Handwritten signature).
3. Signed by: _____ (Type or print name).
4. Title: _____ (Owner/Partner/President/Vice President).

END OF DOCUMENT 005100

DOCUMENT 005101 - NOTICE OF INTENT TO AWARD

<Insert Date>

CONTRACTORS
SUBMITTING BIDS ON <Insert Date>

RE: Root Control 2022
Myrtle Beach, SC
Project # 23-B0010

Contractors:

Based on the Bids received on <Insert Date> and summarized in the enclosed BID TABULATION SHEET, The City of Myrtle Beach intends to award a Contract for Construction to <Insert Name of Contractor> for the above referenced project for their Base Bid price of <Insert Price Numbers> and Alternates <Insert Alternate Numbers> totaling <Insert Total>.

Please return the plans and specifications to our office at your earliest convenience, if you have not already done so.

We appreciate your time and interest in bidding this project and look forward to the opportunity of working with you on future projects. Should you have any questions or comments please feel free to contact me.

Sincerely,

<Insert Name of Design Professional>

Enclosure <Insert Date> Bid Tabulation Sheet

END OF DOCUMENT 005101

DOCUMENT 005102 - NOTICE TO PROCEED

<Insert Date>

<Insert Name>

<Insert Contractor>

<Insert Address>

<Insert City and State>

RE: Root Control 2022

Myrtle Beach, SC

Project # 23-B0010

Dear <Insert Name>:

Please consider this as NOTICE TO PROCEED.

DATE OF COMMENCEMENT shall be established as <Insert Day>, <Insert Date>, and the DATE OF SUBSTANTIAL COMPLETION shall therefore be established as 11:59 PM, <Insert Day>, <Insert Date>, <Insert Number of Days> calendar days from the Date of Commencement.

The Contractor shall notify the Engineer and Owner in writing forty-eight (48) hours before starting work at the Project Site. In case of a temporary suspension of work, he shall give reasonable notice before resuming work.

Should you have any questions or need any additional information please feel free to contact me.

Sincerely,

The City of Myrtle Beach

Owner

By _____

Owner and/or Architect

Title _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED

Is hereby acknowledged by:

Contractor

This the _____ day of
_____, 20__

By _____

Title _____

END OF DOCUMENT 005102

NOTICE TO PROCEED

January 2018 Edition

DOCUMENT 006000 - PROJECT FORMS

1.1 FORM OF AGREEMENT AND GENERAL CONDITIONS

- A. The following form of Owner/Contractor Agreement and form of the General Conditions shall be used for Project:
1. AIA Document A101, "Standard Form of Agreement between Owner and Contractor, Stipulated Sum."
 - a. The General Conditions for Project are AIA Document A201, "General Conditions of the Contract for Construction."
 2. The General Conditions are included in the Project Manual.
 3. The Supplementary Conditions for Project are incorporated into a modified copy of the General Conditions included in the Project Manual.
 4. Owner's document(s) are included in the Project Manual.

1.2 ADMINISTRATIVE FORMS

- A. Administrative Forms: Additional administrative forms are specified in Division 01 General Requirements.
- B. Copies of AIA standard forms may be obtained from the American Institute of Architects; <http://www.aia.org/contractdocs/purchase/index.htm>; docspurchases@aia.org; (800) 942-7732.
- C. Preconstruction Forms:
1. Form of Performance Bond and Labor and Material Bond: AIA Document A312, "Performance Bond and Payment Bond."
- D. Information and Modification Forms: (Not Applicable to this Project)
1. Form for Requests for Information (RFIs): AIA Document G716, "Request for Information (RFI)."
 2. Form of Request for Proposal: AIA Document G709, "Work Changes Proposal Request."
 3. Change Order Form: AIA Document G701, "Change Order."
 4. Form of Architect's Memorandum for Minor Changes in the Work: AIA Document G710, "Architect's Supplemental Instructions."
 5. Form of Change Directive: AIA Document G714, "Construction Change Directive."
- E. Payment Forms:
1. Schedule of Values Form: AIA Document G703, "Continuation Sheet."
 2. Payment Application: AIA Document G702/703, "Application and Certificate for Payment and Continuation Sheet."
 3. Form of Contractor's Affidavit: AIA Document G706, "Contractor's Affidavit of Payment of Debts and Claims."
 4. Form of Affidavit of Release of Liens: AIA Document G706A, "Contractor's Affidavit of Payment of Release of Liens."
 5. Form of Consent of Surety: AIA Document G707, "Consent of Surety to Final Payment."

END OF DOCUMENT 006000



AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

The City of Myrtle Beach
P.O. Box 2468
Myrtle Beach, SC. 29578

and the Contractor:
(Name, legal status, address and other information)

for the following Project:
(Name, location and detailed description)

Root Control 2022

This Project consists of applying an herbicide root control product within our sanitary sewer lines to eliminate any root growth present and to control any future re-growth with-in the sewer system. The City is looking to do a Year Contract with the possibility of four (4) One-year renewal contracts. The Contractor will be allowed the opportunity to adjust the Bid Tab on each 1-year renewal up to 5%. The City of Myrtle Beach will provide lo-cation maps once the project is awarded. The City of Myrtle Beach will assist in locating and uncovering manholes that cannot be located on the list and will assist in the removal of any excess sewage or grease located in manholes. The Contractor is responsible for removing/replacing fencing and/or anything obstructing access to manholes. The contractor will also be responsible for replacing or repairing any damage to landscaping or hard scape.

The Architect:
(Name, legal status, address and other information)

Not Applicable on this Project

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101@–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201@–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- The date of this Agreement.
- A date set forth in a notice to proceed issued by the Owner.
- Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

Init.

/

[X] Not later than 45 (Forty-Five) calendar days from the date of commencement of the Work.

[] By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

Substantial Completion Date

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Hundred Thousand Dollars (\$ 100,000), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item

Price

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. *(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

Item

Price

Conditions for Acceptance

§ 4.3 Allowances, if any, included in the Contract Sum: *(Identify each allowance.)*

Item

Price

§ 4.4 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item

Units and Limitations

Price per Unit (\$0.00)

Pipe Size

Price Per Linear Foot

Est Total

6 inch

8 inch

10 inch

12 inch

15 inch

§ 4.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

Should all Contract Work not be completed on or before the Date of Substantial Completion, Thirty (30) calendar days after the Date of commencement, plus any additional days that may result from extensions of time granted by the Owner, Contractor shall pay and the Owner shall accept the sum of Five Hundred Dollars (\$500.00) per calendar day for each day after such date required to complete the Contract Work.

Init.

§ 4.6 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

The period covered by each Application for Payment shall be one (1) calendar month ending on the twenty-fifth (25th) day of the month.

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 29 day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 10 day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than eight (8) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

10% of work completed

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

Retainage may be reduced to Five Percent (5%) at the discretion of the Owner when the Work is Ninety Percent (95%) substantially complete.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

Contractor may submit their final Pay Request for Project and Labor at Substantial Completion, then a final Pay Request for the release of Retainage once all Close Out Documents have been submitted to the Owner and approved by all parties.

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

%

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to Section 15.4 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative:

(Name, address, email address, and other information)

The City of Myrtle Beach
Mr. Chris Miller, Public Works Infrastructure
3210 Mr. Joe White Avenue
Myrtle Beach, SC. 29577
Telephone Number: (843) 918-2023

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§ 8.3 The Contractor’s representative:
(Name, address, email address, and other information)

§ 8.4 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days’ prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

See Specification Document Bid #23-0010

- .5 Drawings

Number	Title	Date
See Specification Book	Bid #23-B0010	

- .6 Specifications

Section	Title	Date	Pages
---------	-------	------	-------

- .7 Addenda, if any:

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Number	Date	Pages
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Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages
-------	------	-------

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

 Brian Tucker, Assistant City Manager
(Printed name and title)

CONTRACTOR *(Signature)*

(Printed name and title)

Additions and Deletions Report for AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:55:34 ET on 10/11/2022.

PAGE 1

The City of Myrtle Beach
P.O. Box 2468
Myrtle Beach, SC. 29578

...

Root Control 2022

...

This Project consists of applying an herbicide root control product within our sanitary sewer lines to eliminate any root growth present and to control any future re-growth with-in the sewer system. The City is looking to do a Year Contract with the possibility of four (4) One-year renewal contracts. The Contractor will be allowed the opportunity to adjust the Bid Tab on each 1-year renewal up to 5%. The City of Myrtle Beach will provide lo-cation maps once the project is awarded. The City of Myrtle Beach will assist in locating and uncovering manholes that cannot be located on the list and will assist in the removal of any excess sewage or grease located in manholes. The Contractor is responsible for removing/replacing fencing and/or anything obstructing access to manholes. The contractor will also be responsible for replacing or repairing any damage to landscaping or hard scape.

...

Not Applicable on this Project

PAGE 2

A date set forth in a notice to proceed issued by the Owner.

PAGE 3

Not later than ~~()~~ 45 (Forty-Five) calendar days from the date of commencement of the Work.

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be ~~(\$)~~ One Hundred Thousand Dollars (\$ 100,000), subject to additions and deductions as provided in the Contract Documents.

...

Pipe Size
6 inch
8 inch
10 inch
12 inch

Price Per Linear Foot

Est Total

15 inch

...

Should all Contract Work not be completed on or before the Date of Substantial Completion, Thirty (30) calendar days after the Date of commencement, plus any additional days that may result from extensions of time granted by the Owner, Contractor shall pay and the Owner shall accept the sum of Five Hundred Dollars (\$500.00) per calendar day for each day after such date required to complete the Contract Work.

PAGE 4

The period covered by each Application for Payment shall be one (1) calendar month ending on the twenty-fifth (25th) day of the month.

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 29 day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 10 day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than eight (8) days after the Architect receives the Application for Payment.

PAGE 5

10% of work completed

...

Retainage may be reduced to Five Percent (5%) at the discretion of the Owner when the Work is Ninety Percent (95%) substantially complete.

...

Contractor may submit their final Pay Request for Project and Labor at Substantial Completion, then a final Pay Request for the release of Retainage once all Close Out Documents have been submitted to the Owner and approved by all parties.

PAGE 6

Litigation in a court of competent jurisdiction

...

The City of Myrtle Beach
Mr. Chris Miller, Public Works Infrastructure
3210 Mr. Joe White Avenue
Myrtle Beach, SC. 29577
Telephone Number: (843) 918-2023

PAGE 7

See Specification Document Bid #23-0010

...

PAGE 8

See Specification Book

Bid #23-B0010

Brian Tucker, Assistant City Manager

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Chris Miller, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:55:34 ET on 10/11/2022 under Order No. 2114247445 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

Payment Bond

CONTRACTOR:

(Name, legal status and address)

SURETY:

(Name, legal status and principal place of business)

OWNER:

(Name, legal status and address)

The City of Myrtle Beach
P.O. Drawer 2468
Myrtle Beach, SC 29578

CONSTRUCTION CONTRACT

Date:

Amount: \$ 0.00

Description:

(Name and location)

Root Control 2022

This Project consists of applying an herbicide root control product within our sanitary sewer lines to eliminate any root growth present and to control any future re-growth with-in the sewer system. The City is looking to do a Year Contract with the possibility of four (4) One-year renewal contracts. The Contractor will be allowed the opportunity to adjust the Bid Tab on each 1-year renewal up to 5%. The City of Myrtle Beach will provide lo-cation maps once the project is awarded. The City of Myrtle Beach will assist in locating and uncovering manholes that cannot be located on the list and will assist in the removal of any excess sewage or grease located in manholes. The Contractor is responsible for removing/replacing fencing and/or anything obstructing access to manholes. The contractor will also be responsible for replacing or repairing any damage to landscaping or hard scape.

BOND

Date:

(Not earlier than Construction Contract Date)

Amount: \$

Modifications to this Bond: None See Section 18

CONTRACTOR AS PRINCIPAL

Company: *(Corporate Seal)*

SURETY

Company: *(Corporate Seal)*

Signature: _____

Name and

Title:

(Any additional signatures appear on the last page of this Payment Bond.)

Signature: _____

Name and

Title:

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:**OWNER'S REPRESENTATIVE:**

(Architect, Engineer or other party:)

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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



Init.

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User Notes:

(1114003809)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

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

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

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

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

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

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

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

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

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

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

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

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: _____ (Corporate Seal)

Signature: _____
Name and Title: _____
Address: _____

SURETY

Company: _____ (Corporate Seal)

Signature: _____
Name and Title: _____
Address: _____

Additions and Deletions Report for **AIA[®] Document A312™ – 2010**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:54:47 ET on 10/11/2022.

PAGE 1

The City of Myrtle Beach
P.O. Drawer 2468
Myrtle Beach, SC 29578

...

Amount: \$ 0.00

...

Root Control 2022

This Project consists of applying an herbicide root control product within our sanitary sewer lines to eliminate any root growth present and to control any future re-growth with-in the sewer system. The City is looking to do a Year Contract with the possibility of four (4) One-year renewal contracts. The Contractor will be allowed the opportunity to adjust the Bid Tab on each 1-year renewal up to 5%. The City of Myrtle Beach will provide lo-cation maps once the project is awarded. The City of Myrtle Beach will assist in locating and uncovering manholes that cannot be located on the list and will assist in the removal of any excess sewage or grease located in manholes. The Contractor is responsible for removing/replacing fencing and/or anything obstructing access to manholes. The contractor will also be responsible for replacing or repairing any damage to landscaping or hard scape.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Chris Miller, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:54:47 ET on 10/11/2022 under Order No. 2114247445 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A312™ – 2010, Payment Bond, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA[®] Document A312™ – 2010

Performance Bond

CONTRACTOR:

(Name, legal status and address)

SURETY:

(Name, legal status and principal place of business)

OWNER:

(Name, legal status and address)

The City of Myrtle Beach
P.O. Box 2468
Myrtle Beach, SC 29578

CONSTRUCTION CONTRACT

Date:

Amount: \$ 0.00

Description:

(Name and location)

Root Control 2022

This Project consists of applying an herbicide root control product within our sanitary sewer lines to eliminate any root growth present and to control any future re-growth with-in the sewer system. The City is looking to do a Year Contract with the possibility of four (4) One-year renewal contracts. The Contractor will be allowed the opportunity to adjust the Bid Tab on each 1-year renewal up to 5%. The City of Myrtle Beach will provide lo-cation maps once the project is awarded. The City of Myrtle Beach will assist in locating and uncovering manholes that cannot be located on the list and will assist in the removal of any excess sewage or grease located in manholes. The Contractor is responsible for removing/replacing fencing and/or anything obstructing access to manholes. The contractor will also be responsible for replacing or repairing any damage to landscaping or hard scape.

BOND

Date:

(Not earlier than Construction Contract Date)

Amount: \$

Modifications to this Bond: None See Section 16

CONTRACTOR AS PRINCIPAL

Company: *(Corporate Seal)*

Signature: _____

Name and

Title:

(Any additional signatures appear on the last page of this Performance Bond.)

SURETY

Company: *(Corporate Seal)*

Signature: _____

Name and

Title:

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:**OWNER'S REPRESENTATIVE:**

(Architect, Engineer or other party:)

Init.

User Notes:

(1215517556)



Init.

/

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User Notes:

(1215517556)

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

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

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

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

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

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

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

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

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

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

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

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

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

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

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

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

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

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

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

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

§ 14 Definitions

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

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

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

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

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

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

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: _____
(Corporate Seal)

Signature: _____
Name and Title: _____
Address: _____

SURETY

Company: _____
(Corporate Seal)

Signature: _____
Name and Title: _____
Address: _____



Additions and Deletions Report for **AIA® Document A312™ – 2010**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:55:00 ET on 10/11/2022.

PAGE 1

The City of Myrtle Beach
P.O. Box 2468
Myrtle Beach, SC 29578

...

Amount: \$ 0.00

...

Root Control 2022

This Project consists of applying an herbicide root control product within our sanitary sewer lines to eliminate any root growth present and to control any future re-growth with-in the sewer system. The City is looking to do a Year Contract with the possibility of four (4) One-year renewal contracts. The Contractor will be allowed the opportunity to adjust the Bid Tab on each 1-year renewal up to 5%. The City of Myrtle Beach will provide lo-cation maps once the project is awarded. The City of Myrtle Beach will assist in locating and uncovering manholes that cannot be located on the list and will assist in the removal of any excess sewage or grease located in manholes. The Contractor is responsible for removing/replacing fencing and/or anything obstructing access to manholes. The contractor will also be responsible for replacing or repairing any damage to landscaping or hard scape.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Chris Miller, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:55:00 ET on 10/11/2022 under Order No. 2114247445 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A312™ – 2010, Performance Bond, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702

PAGE ONE OF _____ PAGES

TO OWNER: PROJECT: _____ APPLICATION NO: 0

Distribution to:

<input type="checkbox"/>	OWNER
<input type="checkbox"/>	ARCHITECT
<input type="checkbox"/>	CONTRACTOR
<input type="checkbox"/>	
<input type="checkbox"/>	

FROM CONTRACTOR: _____ VIA ARCHITECT: _____

PERIOD TO: _____

PROJECT NOS: _____

CONTRACT FOR: _____

CONTRACT DATE: _____

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM	\$	_____
2. Net change by Change Orders	\$	_____ 0.00
3. CONTRACT SUM TO DATE (Line 1 ± 2)	\$	_____ 0.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$	_____ 0.00
5. RETAINAGE:		
a. _____ % of Completed Work (Column D + E on G703)	\$	_____ \$0.00
b. _____ % of Stored Material (Column F on G703)	\$	_____ Included in above
Total Retainage (Lines 5a + 5b or Total in Column I of G703)	\$	_____ 0.00
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	\$	_____ 0.00
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$	_____
8. CURRENT PAYMENT DUE	\$	_____ 0.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	\$	_____ 0.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: _____

By: _____ Date: _____

State of: _____ County of: _____
 Subscribed and sworn to before me this _____ day of _____
 Notary Public: _____
 My Commission expires: _____

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ _____

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT: _____
 By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	_____	_____
Total approved this Month	_____	_____
TOTALS	\$0.00	\$0.00
NET CHANGES by Change Order	\$0.00	

CONTINUATION SHEET

AIA DOCUMENT G703

PAGE OF PAGES

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing

Contractor's signed certification is attached.

In tabulations below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO:

APPLICATION DATE:

PERIOD TO:

ARCHITECT'S PROJECT NO:

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)	H % (G ÷ C)	I BALANCE TO FINISH (C - G)	J RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
	<i>(Fill in & break down contract values)</i>								
	<i>(Add any change order(s) descriptions)</i>								
	GRAND TOTALS	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0%	\$0.00	\$0.00

Users may obtain validation of this document by requesting of the license a completed AIA Document D401 - Certification of Document's Authenticity

DRAFT AIA® Document G706™ - 1994

Contractor's Affidavit of Payment of Debts and Claims

PROJECT: *(Name and address)*

ARCHITECT'S PROJECT NUMBER:

TO OWNER: *(Name and address)*

CONTRACT FOR:

CONTRACT DATED:

OWNER:
ARCHITECT:
CONTRACTOR:
SURETY:
OTHER:

STATE OF:
COUNTY OF:

The undersigned hereby certifies that, except as listed below, payment has been made in full and all obligations have otherwise been satisfied for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or Owner's property might in any way be held responsible or encumbered.

EXCEPTIONS:

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Consent of Surety to Final Payment. Whenever Surety is involved, Consent of Surety is required. AIA Document G707, Consent of Surety, may be used for this purpose

Indicate Attachment Yes No

The following supporting documents should be attached hereto if required by the Owner:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.
3. Contractor's Affidavit of Release of Liens (AIA Document G706A).

CONTRACTOR: *(Name and address)*

BY:

(Signature of authorized representative)

(Printed name and title)

Subscribed and sworn to before me on this date:

Notary Public:
My Commission Expires:

DRAFT AIA[®] Document G706A[™] - 1994

Contractor's Affidavit of Release of Liens

PROJECT: *(Name and address)*

ARCHITECT'S PROJECT NUMBER:

TO OWNER: *(Name and address)*

CONTRACT FOR:
CONTRACT DATED:

OWNER:

ARCHITECT:

CONTRACTOR:

SURETY:

OTHER:

STATE OF:
COUNTY OF:

The undersigned hereby certifies that to the best of the undersigned's knowledge, information and belief, except as listed below, the Releases or Waivers of Lien attached hereto include the Contractor, all Subcontractors, all suppliers of materials and equipment, and all performers of Work, labor or services who have or may have liens or encumbrances or the right to assert liens or encumbrances against any property of the Owner arising in any manner out of the performance of the Contract referenced above.

EXCEPTIONS:

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.

CONTRACTOR: *(Name and address)*

BY:

(Signature of authorized representative)

(Printed name and title)

Subscribed and sworn to before me on this date:

Notary Public:
My Commission Expires:

DRAFT AIA® Document G707™ - 1994

Consent Of Surety to Final Payment

PROJECT: <i>(Name and address)</i>	ARCHITECT'S PROJECT NUMBER:	<input type="checkbox"/> OWNER: <input type="checkbox"/> ARCHITECT: <input type="checkbox"/> CONTRACTOR: <input type="checkbox"/> SURETY: <input type="checkbox"/> OTHER:
	CONTRACT FOR:	
TO OWNER: <i>(Name and address)</i>	CONTRACT DATED:	

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the
(Insert name and address of Surety)

on bond of
(Insert name and address of Contractor)

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety of any of its obligations to
(Insert name and address of Owner)

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date:
(Insert in writing the month followed by the numeric date and year.)

(Surety)

(Signature of authorized representative)

(Printed name and title)

Attest:
(Seal):

SECTION 012900 - PAYMENT PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements necessary to prepare and process Applications for Payment.

1.2 SCHEDULE OF VALUES

- A. Coordination: Coordinate preparation of the schedule of values with preparation of Contractor's construction schedule.
 - 1. Coordinate line items in the schedule of values with items required to be indicated as separate activities in Contractor's construction schedule.
 - 2. Submit the schedule of values to Architect at earliest possible date, but no later than seven days before the date scheduled for submittal of initial Applications for Payment.
- B. Format and Content: Use Project Manual table of contents as a guide to establish line items for the schedule of values. Provide at least one-line item for each Specification Section.
 - 1. Arrange schedule of values consistent with format of AIA Document G703.
 - 2. Provide a breakdown of the Contract Sum in enough detail to facilitate continued evaluation of Applications for Payment and progress reports. Provide multiple line items for principal subcontract amounts in excess of [ten] 10 percent of the Contract Sum.
 - 3. Provide a separate line item in the schedule of values for each part of the Work where Applications for Payment may include materials or equipment purchased or fabricated and stored, but not yet installed.
 - a. Differentiate between items stored on-site and items stored off-site. Include requirements for insurance and bonded warehousing, if required.
 - 4. Allowances: Provide a separate line item in the schedule of values for each allowance. Show line-item value of unit-cost allowances, as a product of the unit cost, multiplied by measured quantity. Use information indicated in the Contract Documents to determine quantities.
 - 5. Overhead Costs: Include total cost and proportionate share of general overhead and profit for each line item.
 - 6. Overhead Costs: Show cost of temporary facilities and other major cost items that are not direct cost of actual work-in-place as separate line items.
 - 7. Closeout Costs. Include separate line items under Contractor and principal subcontracts for Project closeout requirements in an amount totaling [ten] 10 percent of the Contract Sum and subcontract amount.
 - 8. Schedule of Values Revisions: Revise the schedule of values when Change Orders or Construction Change Directives result in a change in the Contract Sum. Include at least one separate line item for each Change Order and Construction Change Directive.

1.3 APPLICATIONS FOR PAYMENT

- A. Each Application for Payment following the initial Application for Payment shall be consistent with previous applications and payments as certified by Projects Manager and paid for by Owner.
- B. Payment Application Times: Submit Application for Payment to Architect by the 29th of the month. The period covered by each Application for Payment is one month, ending on the 25th.
 - 1. Submit draft copy of Application for Payment seven days prior to due date for review by Architect.
- C. Application for Payment Forms: Use AIA Document G702 and AIA Document G703 as form for Applications for Payment.
- D. Application Preparation: Complete every entry on form. Notarize and execute by a person authorized to sign legal documents on behalf of Contractor. Architect will return incomplete applications without action.
 - 1. Entries shall match data on the schedule of values and Contractor's construction schedule. Use updated schedules if revisions were made.
 - 2. Include amounts for work completed following previous Application for Payment, whether or not payment has been received. Include only amounts for work completed at time of Application for Payment.
 - 3. Include amounts of Change Orders and Construction Change Directives issued before last day of construction period covered by application.
- E. Transmittal: Submit one signed (in blue ink) and notarized electronic copy of Application for Payment to Architect. Submission is to include Waiver of Liens and all appropriate back-up, if required.
 - 1. Transmit with a transmittal form listing attachments and recording appropriate information about application.
- F. Waivers of Mechanic's Lien: With each Application for Payment, submit waivers of mechanic's lien from entities lawfully entitled to file a mechanic's lien arising out of the Contract and related to the Work covered by the payment including subcontractors, sub-subcontractors, and suppliers for construction period covered by the previous application.
 - 1. Submit partial waivers on each item for amount requested in previous application, after deduction for retainage, on each item.
 - 2. When an application shows completion of an item, submit conditional final or full waivers.
 - 3. Owner reserves the right to designate which entities involved in the Work must submit waivers.
 - 4. Submit final Application for Payment with or preceded by conditional final waivers from every entity involved with performance of the Work covered by the application who is lawfully entitled to a lien.
 - 5. Waiver Forms: Submit executed waivers of lien on forms acceptable to Owner.
- G. Initial Application for Payment: Administrative actions and submittals that must precede or coincide with submittal of first Application for Payment include the following:
 - 1. List of subcontractors.
 - 2. Schedule of values.
 - 3. Contractor's construction schedule (preliminary if not final).

4. Products list (preliminary if not final).
 5. Sustainable design action plans, including preliminary project materials cost data.
 6. Schedule of unit prices.
 7. Submittal schedule (preliminary if not final).
 8. List of Contractor's staff assignments.
 9. List of Contractor's principal consultants.
 10. Copies of building permits.
 11. Copies of authorizations and licenses from authorities having jurisdiction for performance of the Work.
 12. Initial progress report.
 13. Report of preconstruction conference.
- H. Application for Payment at Substantial Completion: After Architect issues the Certificate of Substantial Completion, submit an Application for Payment showing 100 percent completion for portion of the Work claimed as substantially complete.
1. Include documentation supporting claim that the Work is substantially complete and a statement showing an accounting of changes to the Contract Sum.
 2. This application shall reflect Certificate(s) of Substantial Completion issued previously for Owner occupancy of designated portions of the Work.
- I. Final Payment Application: After completing Project closeout requirements, submit final Application for Payment with releases and supporting documentation not previously submitted and accepted, including, but not limited, to the following:
1. Evidence of completion of Project closeout requirements.
 2. Insurance certificates for products and completed operations where required and proof that taxes, fees, and similar obligations were paid.
 3. Updated final statement, accounting for final changes to the Contract Sum.
 4. AIA Document G706.
 5. AIA Document G706A.
 6. AIA Document G707.
 7. Evidence that claims have been settled.
 8. Final meter readings for utilities, a measured record of stored fuel, and similar data as of date of Substantial Completion or when Owner took possession of and assumed responsibility for corresponding elements of the Work.
 9. Final liquidated damages settlement statement.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 012900

SECTION 017700 - CLOSEOUT PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements for contract closeout, including, but not limited to, the following:
1. Substantial Completion procedures.
 2. Final completion procedures.
 3. List of incomplete items (Punch List)
 4. Submittal of Project Warranties

1.2 SUBSTANTIAL COMPLETION PROCEDURES

- A. Substantial Completion is when the project reaches a point in the construction phase when the items can be used/placed in service for its intended purpose. A punch list will be issued to the contractor for replacement or repair work to be done before final retainage payment. Punch list to be completed in a 30 calendar day time frame from the date of issuance.

1.3 FINAL COMPLETION PROCEDURES

- A. Submittals Prior to Final Completion: Before requesting final inspection for determining final completion, complete the following:
1. Submit a final Application for Payment according to Section 012900 "Payment Procedures."
 2. Certified List of Incomplete Items:
 3. Substantial Completion inspection list of items to be completed or corrected (punch list),
- B. Inspection: Submit a written request for final inspection to determine acceptance a minimum of 10 days prior to date the work will be completed and ready for final inspection and tests. On receipt of request, Projects Manager will either proceed with inspection or notify Contractor of unfulfilled requirements.

1.4 SUBMITTAL OF PROJECT WARRANTIES

- A. Time of Submittal: Submit written warranties on request of Architect for designated portions of the Work where warranties are indicated to commence on dates other than date of Substantial Completion, or when delay in submittal of warranties might limit Owner's rights under warranty.

- B. Organize warranty documents into an orderly sequence based on the table of contents of Project Manual.
- C. Warranties in Paper Form: (Not Applicable for this Project)
 - 1. Bind warranties and bonds in heavy-duty, three-ring, vinyl-covered, loose-leaf binders, thickness as necessary to accommodate contents, and sized to receive 8-1/2-by-11-inch (215-by-280-mm) paper.

SECTION 015526 - TRAFFIC CONTROL PLAN

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and General Provisions of the Contract, including General and Supplementary Conditions and Division 01 Specification Section applies to this Section.

1.2 PURPOSE: The purpose of this section is to provide a plan for maintenance and control of traffic during work under this contract.

This section sets forth procedures that will permit traffic to pass through or around the project area safely and with a minimum of inconvenience.

PART 2 - GENERAL

2.1 GENERAL

These requirements are in addition to the SCDOT Standard Specifications setting forth certain specific procedures and do not relieve the Contractor of any responsibilities placed upon him by the SCDOT Standard Specifications.

All control devices shall conform to the South Carolina Manual on Uniform Traffic Control Devices, latest edition (hereinafter referred to as SCMUTCD) unless Engineer gives authorization in writing to do otherwise.

This work shall consist of the furnishing, installation, maintenance, relocation and removal of signs, traffic cones, barrels, barricades, warning lights, flaggers, removal of conflicting pavement marking lines, and other traffic control devices which are used for the purpose of regulating, warning, or directing traffic during construction of the project. It shall also include temporary concrete barrier and crash cushions and other devices if specified in the Drawings. Pavement markings shall also be the responsibility of the Contractor. All items shall remain the property of the Contractor unless otherwise specified in the Drawings or Contract Documents.

- A. Specific reference is made to Subsection 107.11 of the SCDOT Standard Specifications - Barricades, Warning and Detour Signs, which is expanded or modified as follows:
 1. Any construction being performed adjacent to the traveled lanes shall be adequately marked by lights or barricades, or both, as shown in the SCMUTCD.
 2. The Contractor performing the work shall be responsible for the erection and maintenance of all traffic control devices during construction as required in the SCMUTCD.
 3. All reflecting materials used on traffic control devices shall conform to the South Carolina Department of Transportation Specifications for Reflective Sheeting. All signs, barrels, barricades, and other traffic control devices used on this project are to be covered with Type III Reflective Sheeting, unless otherwise specified in the Contract Documents or SCDOT Encroachment Agreement. The background material for the signs is to be constructed of either aluminum or steel. Aluminum is to meet the requirements of SCDOT Specifications for Flat Sheet Aluminum Sign Blanks, latest edition. The steel blank shall be made of 14 Gauge materials.

No splices will be permitted in reflective sheeting, except for signs that cannot be covered with a single piece of the widest material available from the sheeting manufacturer. Only one splice is permitted per sign and it shall be on a centerline of the sign. Splices

shall overlap not less than 3/16" except butt splices may be used on signs processed with transparent colors, with a gap not greater than 1/32" allowed. In horizontal overlapped splices, the top portion shall overlap the bottom portion, as viewed when the sign is in an upright position. No screening paints are permitted between the sheeting of overlapped splices. When splicing is done, the reflective sheeting must be carefully matched for color to provide uniform appearance both day and night.

4. All signs and barricades shall be mounted on supports constructed to yield upon impact to minimize hazards to motorists, as indicated in Section 5-2.04 of SCMUTCD.
5. Barrels or drums used for traffic control shall be constructed of a plastic material. Metal barrels or drums will not be allowed.
6. When not in use, all barricades, signs, or other traffic control devices shall be either masked or removed and faced so as not to confuse the traveling public.
7. The Contractor shall maintain all signals and other traffic control channeling devices 24 hours a day. Contractor's personnel shall be available to maintain all traffic control devices as needed. All signs and other traffic control and channeling devices shall be kept clean, aligned and in good repair at all times during their use.
8. The Contractor shall provide all pavement markings - temporary and permanent markings. Temporary markings are markings that are required during construction due to the following reasons:
 - a) Asphalt mixtures covering existing markings.
 - b) Changes in traffic patterns.
 - c) Changes in alignment due to relocations.
 - d) Maintenance and replacement of any existing markings which have lost their reflectivity or have become damaged during construction.

Permanent markings are placed on the final surface (including relocations) when the traffic pattern will no longer be changed. When a road is resurfaced, pavement markings are to be applied after each application of asphalt mix, and bituminous surface treatment including the final course.

Pavement Markings - temporary and permanent - will include but not be limited to lanes lines, no passing zone markings, edge lines and any transverse lines, and are to be in place at the end of each days' work.

When a road is widened, the Contractor is to provide all markings, temporary and permanent, necessitated by the widening including, but not limited to, all lane lines, median edge lines (solid and skip) and solid edge lines.

Temporary pavement markings shall use "3 Min. Paint" and Specifications for "3 Min. Paint" are available from the Research and Materials Laboratory, SCDOT, Shop Road.

All temporary painted lines are to be applied at a wet film thickness of 15 mils ± 1 mils and are to have glass beads applied at 6 lbs. Per gallon of binder. Before applying the painted lines, the roadway surface is to be cleaned by sweeping to assure a clean surface for the application of the paint. Permanent markings will be thermoplastic.

The lines are to be of the width and length prescribed by the SCMUTCD and/or the Engineer. Dashed lines are to be 4 inches wide by 10 feet long with a 30-foot gap.

Edge lines are normally solid and 4 inches wide. No passing zone markings are to be provided in accordance with procedures prescribed in the SCMUTCD.

The contractor shall follow standard practices in applying paint to insure that a straight line with true edges and a clean cut is obtained.

9. The Contractor shall be responsible for and shall furnish flaggers, appropriately equipped and instructed, when required to regulate the flow of vehicular traffic around and through the project during the prosecution of the work. Flaggers are to use a STOP/SLOW paddle. The use of the flags will NOT be permitted.
10. The Engineer reserves the right to restrict construction operations and/or lane closures when the continuance of the work and/or lane closures would seriously hinder normal traffic flow during holidays, extended holiday periods weekends, special events or at other times when traffic is unusually heavy. Where specified on the Drawings, streets with high volume of traffic are not to be blocked or lanes closed during specified periods.
11. On roadways open to public travel, the Contractor's trucks and other vehicles will be required to travel in the direction of the normal roadway traffic. When the equipment is not in use, on roadways open to public travel, the Contractor's equipment or vehicles shall be parked well away from the travel lanes so as to lessen the possibility of the equipment being hit by a vehicle. If protection devices are in place such as guardrail or concrete barriers, the equipment can be parked closer to the travel lanes.
12. When working adjacent to or over travel lanes, the Contractor shall insure that dust and other debris from his operation does not endanger normal traffic operations.
13. The contractor shall schedule and arrange his work, equipment and materials to insure the least inconvenience and the utmost in safety to the traveling public and to the Contractor's and the Department's forces.
14. Any existing permanent signs in conflict with any shift or change in traffic patterns or lanes shall be masked, removed or covered and appropriate temporary signing shall be installed by the Contractor to the satisfaction of the Engineer. When the conflict is removed, the Contractor shall immediately re-erect or replace the previously existing permanent signs.
15. Where a specific condition is not covered in the Contract Documents, prior to beginning such work causing the condition, a plan of traffic control shall be agreed upon between the Contractor and the Engineer.
16. All construction signs, whether portable or with supports embedded in earth, are to be leveled and have a mounting height as specified in the SCMUTCD. Mounting height is defined as the distance from bottom edge of the lowest sign to edge of traveled way.
17. When any lane on a multi-lane road is closed for any duration, the Contractor shall provide a large flashing arrow-board sign. The flashing arrow shall be used at the beginning of the taper for a lane closure. One may also be required in front of the construction as specified in the SCMUTCD.
18. In order to provide for the safe movement of traffic, during the rough grading operation, the earth adjacent to the existing pavement to be retained and widened shall be excavated in such a manner so as to maintain a slope no steeper than 6:1 away from the edge of the existing pavement until the fine grading operation is commenced.

END OF SECTION 015526

SECTION 329219 - SEEDING

PART 1- GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and General Provisions of the Contract, including General and Supplementary Conditions and Division 01 Specification Section applies to this Section.

1.2 WORK INCLUDES

- A. Preparation of subsoil.
- B. Fertilizing.
- C. Seeding

1.3 RELATED SECTIONS

- A. Section 312000 - Earth Moving.

1.4 REFERENCES

- A. SCDOT Standard Specifications.

1.5 DEFINITIONS

- A. Weeds: Includes Dandelion, Jimsonweed, Quackgrass, Horsetail, Morning Glory, Rush Grass, Mustard, Lambsquarter, Chickweed, Cress, Crabgrass, Canadian Thistle, Nutgrass, Poison Oak, Blackberry, Tansy Ragwort, Bermuda Grass, Johnson Grass, Poison Ivy, Nut Sedge, Nimble Will, Bindweed, Bent Grass, Wild Garlic, Perennial Sorrel and Brome Grass.

1.6 REGULATORY REQUIREMENTS

- A. Comply with regulatory agencies for fertilizer.

1.7 QUALITY ASSURANCE

- A. Provide seed mixture in containers showing percentage of seed mix, year of production, net weight, date of packaging and location of packaging.
- B. Before acceptance of the seeding performed for the establishment of permanent vegetation, the Contractor will be required to produce a satisfactory stand of perennial grass whose root system shall be developed sufficiently to survive dry periods and the winter weather and be capable of reestablishment in the spring.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Deliver grass seed mixture in sealed containers. Seed in damaged packaging is not acceptable.
- B. Deliver fertilizer in waterproof bags showing weight, chemical analysis and name of manufacturer.

PART 2- PRODUCTS

2.1 SEED MIXTURE

A. Hydroseeding - Mix per acre

1200 lb. Wood Fiber Mulch
400 lb. 10-10-10
150 lb. Rye Grass Seed
20 lb. Carpet Grass Seed
10 lb. Centipede Seed

B. Seeding - Mix per acre: Use seed mixture above and hay straw mulch.

2.2 SOIL MATERIALS

A. Topsoil: Excavated from site and free of weeds.

2.3 ACCESSORIES

A. Fertilizer: FS O-F-241, Recommended for grass, with fifty percent of the elements derived from organic sources; of proportion necessary to eliminate any deficiencies of topsoil, to the following proportions: Nitrogen 10 percent, phosphoric acid 10 percent, soluble potash 10 percent or as directed by the Owner/Engineer.

B. Water: Clean, fresh and free of substances or matter which could inhibit vigorous growth of grass.

C. Lime: Lime shall be applied at the rate of 3,000 pounds per acre (69 lbs. per 1,000 square foot) and shall be ground limestone containing not less than 85% of total carbonate. Lime shall be ground such that at least 50% will pass through a #20 sieve.

PART 3 - EXECUTION

3.1 GENERAL

A. All graded areas except those to be occupied by pavement, walks, buildings, gravel, rip-rap or other surface shall be grassed.

B. All disturbed areas which shall be undisturbed for three months or more shall be grassed.

C. The seed bed shall be of loose soil. If necessary, light tilling shall be done to break up crusts and provide enough loose soil to cover the seed.

D. The topsoil shall be graded to the finished grades specified.

E. Fertilizer and lime shall be uniformly distributed over the area in the quantities specified herein.

F. During the grading operations, all stones, stakes, wires, that may be a hindrance to mowing operations shall be removed.

G. Swale and ditch bottoms shall be seeded at double the rate specified above.

- H. All slopes steeper than 2: 1 shall be hydroseeded.
- I. Mulch or straw shall be applied to all seeded areas within 24 hours after covering the seed at the rate of two tons per acre (92 pounds per 1,000 square feet).

3.2 INSPECTION

- A. Verify that prepared soil base is ready to receive the work of this section.
- B. Beginning of installation means acceptance of existing site conditions.

3.3 SEEDING NEW LAWNS

- A. Do not use wet seed or seed that is moldy or otherwise damaged in transit or storage.
- B. Sow seed using a spreader or seeding machine. Do not seed when wind velocity exceeds 5 miles per hour. Distribute seed evenly over entire area by sowing equal quantity in 2 directions at right angles to each other.
- C. Sow not less than the quantity of seed specified or scheduled.
- D. Rake seed lightly into top 1/8 inch of soil, roll lightly, and water with a fine spray.
- E. Protect seeded slopes against erosion with erosion netting or other methods acceptable to the Owner.
- F. Protect seeded areas against erosion by spreading specified lawn mulch after completion of seeding operations. Spread uniformly to form a continuous blanket not less than 1-1/2 inches' loose measurement over seeded areas.

3.4 HYDROSEEDING NEW LAWNS

- A. Mix specified seed, fertilizer, and pulverized mulch in water, using equipment specifically designed for hydroseed application. Continue mixing until uniformly blended into homogeneous slurry suitable for hydraulic application.
- B. Apply seeded slurry evenly in two intersecting directions, with a hydraulic seeder.
- C. Do not hydroseed area in excess of that which can be mulched on same day.
- D. Apply wood cellulose fiber hydro-mulch during seeding process at a rate of 1200 lbs. per acre.
- E. Apply water with a fine spray immediately after each area has been mulched. Saturate to 4 inches of soil.
- F. Do not sow immediately following rain, when ground is too dry, or during windy periods.

3.5 RECONDITIONING EXISTING LAWNS

- A. Recondition existing lawn areas damaged by Contractor's operations including storage of materials and equipment and movement of vehicles. Also recondition existing lawn areas where minor regrading is required.

- B. Provide fertilizer, seed or sod, and soil amendments as specified for new lawns, and as required, to provide satisfactorily reconditioned lawn.
- C. Provide new topsoil, as required, to fill low spots and meet new finish grades. Cultivate bare and compacted areas thoroughly to provide a satisfactory planting bed.
- D. Remove diseased and unsatisfactory lawn areas; do not bury into soil. Remove topsoil containing foreign materials resulting from Contractor's operations, including oil drippings, stone, gravel, and other loose building materials.
- E. Where substantial lawn remains, but is thin, mow, rake, aerate if compacted, fill low spots, remove humps, and cultivate soil, fertilize, and seed. Remove weeds before seeding, or if extensive, apply selective chemical weed killers as required. Apply a seed bed mulch, if required, to maintain moist condition.

END OF SECTION 329219

ROOT CONTROL TECHNICAL SPECIFICATIONS

PART 1 - GENERAL

1.01 SCOPE OF WORK

Supply all labor, equipment, materials, and incidentals necessary to apply an herbicide root control product within sanitary sewer lines to kill the root growth present and to control regrowth without damaging the vegetation producing the roots.

1.02 SUBMITTALS

A. Experience and Qualifications

Bidders must be licensed with the Clemson University/SC Dept of Pesticide Regulation, (hereafter, STATE) prior to the bid date. All bidders must have a minimum level of pesticide application experience with the product submitted, (see Part 6) and employ a State certified pesticide applicator on every job site at all times. The contractor must submit certificates for three current employees with valid certificates of completion of a course in a confined space rescue training in accordance with the Federal Regulation CFR 29 1910.146 that pertains to manhole entry. Certificates must apply to field personnel the contractor intends to have work on the project specified herein. Contractors must provide the necessary references and documentation with the bid (see reference page attachment).

1. Applicator license/certification with the State. Experience records to demonstrate a minimum of 500,000 feet of sewer applications as a Certified Pesticide Applicator. See Part 6.04
2. Experience records to demonstrate a minimum of three projects completed and each project exceeding 50,000 linear feet of direct experience in applying chemical sewer root control of the type specified. See Part 6.03
3. Project experience to indicate the staffing and equipment capable of performing work consistent with the needs of this contract on an immediate basis.

B. The Contractor shall provide shop drawings, product info, and other pertinent information as follows:

1. Safety Data Sheet (SDS)
2. Product Specimen Label.
3. Registration with US EPA.
4. Registration with the STATE

1.03 TRANSPORTATION, STORAGE, AND PROTECTION

All materials shall be transported, stored, and protected in accordance with manufacturer's recommendations and applicable Federal and State guidelines. Liquid chemicals must be packaged in mini-bulk containers that are designed for re-use with dry lock connectors, as part of a closed chemical handling system. Disposable pesticide containers will not be accepted for use on this project.

PART 2 - PRODUCTS

2.01 ROOT CONTROL PRODUCT

- A. The root control product shall be registered with the US EPA and the State, **prior to the bid opening**, and shall be labeled for use in sewers to control tree roots. The root control product shall contain an active ingredient for killing sewer roots and controlling their regrowth. There shall also be a surfactant system to deliver the active ingredient (herbicide) to the target root tissue.

1. Active ingredient:

- a. Shall not be labeled "RESTRICTED USE: DUE TO ACUTE TOXICITY" by the US EPA.
- b. Must be currently classified by the US EPA as a non-carcinogen, i.e., as "Not Likely to Be Carcinogenic to Humans" under either the 1985 or 2005 classification systems.
- c. Must be non-volatile in order to prevent inhalation and/or exposure to workers, homeowners and the general public in the vicinity of treated areas.

2. Surfactant system:

- a. Must produce a dense, small bubble, clinging foam, which sustains its shape for minimum of one hour.
- b. Must enhance the penetration of herbicide into root masses.
- c. Products that generate foam chemically, upon contact with water **shall not be accepted**.

- B. Substitutes and Proven Equivalents:

Should the Contractor wish to use any product other than specified herein, must submit complete descriptive literature naming the proposed substitution and manufacturer and must be approved in writing prior to the bid date.

PART 3 - APPLICATION

3.01 MANNER OF APPLICATION

- A. All work must be performed by on-site State certified applicator and be performed according to label instructions. All applications shall be done by foaming or methods provided on the product label.

The application of the product shall be performed in such a way as to contact roots within the main line sewer to be treated. Effort will also be made to penetrate lateral sewers to contact roots residing in the "wye" connections. The foam must be generated using air injection equipment, and the foam must be pumped into the sewer under low pressure. Foam quality must be sufficient to effectively treat all pipe diameters. Products designed to generate foam on contact with water **shall not be accepted**.

- B. Due to efficacy and risk of exposure, high pressure application equipment shall not be used prior to or during the treatment process.

- C. Manholes used to access a main line sewer section for treatment must be treated as part of the main line treatment and included as part of the main line section price per foot. The Contractor must fully cover the inside manhole wall with a three-inch coating of foam within twelve inches of the road/ground surface. The Contractor must incorporate a treatment method that complies with all safety and label instructions of the pesticide product accepted for use.

3.02 NOTIFICATION OF WASTEWATER TREATMENT PLANT

The Contractor shall take all steps necessary to prevent adverse effects on wastewater treatment plant (hereafter, WWTP) processes.

The Contractor attests, through submittal of this bid and entering this contract, that the Contractor is expert in this type of work and understands the risks posed by this type of work on WWTP processes. The Contractor shall not rely on the Owner for guidance in this regard.

Introduction of any products in any collection system must be with the approval of the appropriate WWTP personnel and the Contractor must notify appropriate WWTP personnel of the date and time of all intended work, and provide information requested, including specimen product labels and Safety Data Sheets, for any products introduced to the collection system.

The Contractor will provide names and phone numbers of individuals responsible for the application of the products.

The Contractor shall be financially responsible for any adverse effects on WWTP processes caused by the product applications, including but not limited to the following: damages to plant processes or equipment, clean-up and restoration costs, fines imposed on the Owner or on the operator of the WWTP by State or Federal agencies, pollution of receiving waters, and civil suits. The Contractor shall further indemnify and hold harmless the Owner and the operator of the WWTP, against all costs, including legal expenses, relating to WWTP failure or other damages or pollution caused by the application of products by the Contractor.

3.03 POLLUTION LIABILITY INSURANCE

The pollution liability insurance described herein is in addition to all other insurance required by the Owner.

At the time of the bid opening, the contractor shall submit insurance certificates showing pollution liability coverage. This coverage shall protect the contractor, the agency, and the agency's officer, agents, and employees from claims for damages for bodily or personal injury, sickness or disease, including death, and from claims for damages to property and/or the environment, which may arise directly out of the use of chemicals and/or pollution. The minimum amount of such insurance shall be **five million (\$5,000,000.00) dollars** total loss. This insurance shall be provided to the contractor by an insurance company that holds at least an "a" rating by a.m. best rating service. Nothing contained in this section shall be construed as limiting the extent of the contractor's responsibility for payment of damages resulting from his operations under the contract.

PART 4 - REPORTING AND DOCUMENTATION

4.01 REPORTS ON COMPLETED WORK TO BE PROVIDED BY THE CONTRACTOR

- A. Upon completion of the project and accompanying the invoice, or whenever requested to by the Owner, the Contractor shall submit reports which show the following information:
1. The name of the Owner
 2. The report date
 3. The date each given sewer line was treated
 4. Street name for each given sewer line
 5. A description (manhole numbers, house numbers, cross streets, etc.) which will enable the Owner to accurately identify the exact location of each sewer line
 6. The pipe size for each given sewer line
 7. The length (manhole to manhole) for each given sewer line
 8. To demonstrate the ability to complete GIS maps for lines treated
 9. The date the guarantee expires on each given sewer line
 10. The ability to have each treatment truck on site to be equipped with GPS locations

In addition, all reports shall be provided in an acceptable software form and formatted for a program designated by the owner at the time of billing.

4.02 GEOSPATIAL (GIS) DOCUMENTATION AND DATA CAPTURE

- A. Owner will provide to Contractor, GIS files necessary to locate structures and pipelines for the project. File format shall be in .GDB, .SHP and/or .CSV format. GPS coordinate accuracy is not guaranteed.
- B. Contractor will supply secure hosting to GIS platform to upload and manage project data. A link to the Owner shall be provided to track project progress and shall be considered incidental to the project.
- C. Contractor will verify GIS pipe footage and will document the following:
- a. Name of Applicator
 - b. Treatment Date
 - c. Status of pipeline completion
 - d. Treated length of pipe
- D. Upon completion of field work and project close out, Contractor shall provide to Owner, upon request, a GIS geodatabase export (if attachments were captured during study) or .SHP file export

PART 5 - GUARANTEE

5.01 REQUIREMENTS

For each sewer section (manhole-to-manhole) that is treated under the Contract, the Contractor shall guarantee the work as follows.

At the option of the Owner, the Contractor shall, at his own expense, re-treat a sewer section, or refund 100% of the payment received to treat that section, in the event that: (1) live roots are found in the section within six months after the application; or, (2) the section plugs up due to tree root obstructions within a period of two years, beginning the date of treatment, and ending two years after the date of treatment.

Retreatments, performed at no charge in honor of the guarantee, do not extend the expiration date of the guarantee.

The guarantee applies only to main line sewer stoppages caused by tree roots. The Contractor is not responsible for damage caused by main line stoppages.

The decision of the Owner as to the cause of a stoppage is binding.

The Contractor shall be required to return periodically, at the Contractor's sole expense, for the purpose of performing free re-treatments as required under the guarantee.

PART 6 - QUALIFICATION SUBMITTALS

6.01 ENVIRONMENTAL HAZARD SUBMITTAL

Complete the attached questionnaire and submit with bid.

6.02 CONTRACTOR'S QUALIFICATION SUBMITTAL

Complete the attached qualification form and submit with bid.

6.03 CONTRACTOR'S EXPERIENCE SUBMITTAL

The Contractor must submit three municipal projects as references for chemical sewer root control work which the agency can verify. Each reference must meet or exceed a project size similar scope. Each reference must be for work performed by the Contractor within the last five years. All references must pertain to actual root control work performed by the Contractor (sub-Contractor references are not applicable). Reference work shall have been performed with the product submitted, and the manner of application specified herein. Previous work for the agency is applicable. Reports and invoices for completed work shall be submitted to verify experience.

6.04 PESTICIDE APPLICATOR EXPERIENCE SUBMITTAL

Certified pesticide applicators shall have a minimum five years' experience in performing the type of work specified, while licensed as a state-certified pesticide applicator. To be considered as qualifying experience, experience must meet the three following requirements: 1) the experience must be obtained as a state licensed and certified applicator, and 2) the experience must have been obtained while the applicator was in the employ of the bidder, and 3) the experience must be for the applications of the product submitted herein. Each certified pesticide applicator shall have personally performed a minimum of 500,000 linear feet of treatments as a certified pesticide applicator. The Contractor must submit a list of three (minimum) employees that are certified with the State, and that meet these requirements with the bid. Complete the attached questionnaire for each applicator and submit with bid.

PART 7 - CONTRACT PERIOD

7.01 The initial term of the contract shall be for the period of one year. The contract may be extended for additional one-year periods up to a total of four additional years, with the mutual consent of the Owner and Contractor. Price changes for succeeding years shall be adjusted in accordance with the consumer price index for the Owner's locale.

PROPOSAL PRICE PAGE
(Submit with Bid)

Sewer line chemical root control, including all labor, materials, equipment and associated costs, shall be paid for at the unit price bid per linear foot of each size pipe. Unit prices are to be computed per linear foot manhole-to-manhole.

PIPE SIZE PRICE	UNIT PRICE PER LINEAR FOOT	ESTIMATED FOOTAGE	TOTAL
6 inch			
8 inch			
10 inch			
12 inch			
15 inch			
18 inch			
21 inch			
Additional Manholes*			
		Sum Total Price (in figures)	

* Manholes not directly connected to main-line sections of pipe specified for treatment.

The Owner reserves the right to reject any or all bids. Bidders are cautioned not to attach any conditions, limitations, or provisions to the proposal as such conditions, limitations or provisions will render their bid informal and cause its rejection.

Submittals: Failure to enclose the following will render this bid non-responsive and result in the rejection of this bid. Indicate whether the following are enclosed.

Yes	No	
		Proposal Price Page
		Specimen Label
		Safety Data Sheet
		Pollution Liability Insurance Certificate
		Environmental Hazard Submittal
		Contractor's Qualification Page
		Contractor's Reference Page
		Pesticide Applicator Experience Submittal
		Confined Space Entry Certificates

**ENVIRONMENTAL HAZARD SUBMITTAL
(Submit With Bid)**

Complete the following questionnaire with respect to the product submitted for use by the bidder.

1. Check the US EPA classification for the submitted product.

Restricted use ___ General use ___

2. What are the Active Ingredients in the product submitted? _____

3. Check the classification the U.S. Environment Protection Agency has assigned to the active ingredient(s) in your product with regards to whether it causes cancer:

✓	1985 Classification		✓	2005 Classification
	Human carcinogen			Carcinogenic to humans
	Probable human carcinogen			Likely to be carcinogenic to humans
	Possible human carcinogen			Suggestive evidence of carcinogenic potential
	Not classifiable as to Human Carcinogenicity			
	Inadequate information to assess carcinogenic potential			
	Evidence of Non-carcinogenicity for humans			
	Not likely to be carcinogenic to humans			

4. Volatile organic compounds (VOC) present an inhalation exposure hazard to humans. Does the product submitted contain active herbicide(s) that are considered (VOC) at ambient temperatures? Yes ____, No____.

If yes, list the volatile herbicide(s) below: _____

**CONTRACTOR'S QUALIFICATION SUBMITTAL
(Submit With Bid)**

Failure to complete this page in full, and to provide valid, existing licenses and insurance, as required, will render this bid non-responsive and result in the rejection of this bid.

Contractor name: _____

Street Address: _____

City/State/Zip: _____

Contractor's State Pesticide Business license #: _____

Contractor US DOT #: _____

Brand name of proposed chemical root control product: _____

US EPA root control product registration #: _____

State root control product registration #: _____

Does the Contractor have pollution liability insurance as specified? Yes ___ No ___

Contractor's pollution liability insurance carrier: _____

What is the current a.m. best rating for your pollution insurance carrier? _____

Using the product submitted, does the Contractor have:

1. A minimum 5 years of experience? Yes ___ No ___
2. A total of 500,000 linear feet completed in the type of work specified? Yes ___ No ___
3. Completed three other jobs, each consisting of more than 50,000 linear feet, which the owner can verify? Yes ___ No ___

Is a product label and Safety Data Sheet (SDS) attached? Yes ___ No ___

As per federal code 29 CFR 1910.146, are certificates of completion in confined space entry training attached for all pesticide applicators listed below? Yes ___ No ___

Contractor's State Certified Pesticide Applicators
(List 3 minimum)

1. Name: _____ Certification #: _____ Years of Experience: _____

2. Name: _____ Certification #: _____ Years of Experience: _____

3. Name: _____ Certification #: _____ Years of Experience: _____

**CONTRACTOR'S ROOT CONTROL REFERENCE PAGE
(Submit With Bid)**

The Contractor must submit three municipal references of similar scope using the product submitted, which the owner can verify.

Owner/Agency:	
Address:	
City, State, Zip:	
Contact & Phone:	
Footage Treated:	
Date of Treatment:	
Owner/Agency:	
Address:	
City, State, Zip:	
Contact & Phone:	
Footage Treated:	
Date of Treatment:	
Owner/Agency:	
Address:	
City, State, Zip:	
Contact & Phone:	
Footage Treated:	
Date of Treatment:	

Only experienced Contractor's in this type of work will be considered for award. Failure to provide sufficient verifiable references will result in rejection of this bid.



City of Myrtle Beach
Root Control 2022 Key Points
PUBLIC WORKS - Infrastructure

Special Provisions:

- The City will hold a pre-con meeting prior to the commencement of work
- Contractor will provide a Point of Contact for the project along with phone numbers
- POC and Foreman will be present at Pre Construction meeting.
- Contractor will provide a daily update/report once project begin: this will consist of completed item, chemical usage & upcoming task.
- Contractor will continually notify the City of any manholes or line segments they are having trouble finding or treating.
- All line segment listed in the bid tab must be treated unless authorized to skip by the City
- The contractor will supply a website or app. For tracking of field crews working in the City.