



Agenda

Greenville City Council

May 20, 2019

6:00 PM

City Hall Council Chambers

Assistive listening devices are available upon request for meetings held in the Council Chambers. If an interpreter is needed for deaf or hearing impaired citizens, please call 252-329-4422 (voice) or 252-329-4060 (TDD) no later than two business days prior to the meeting.

- I. Call Meeting To Order**
- II. Invocation - Council Member Meyerhoeffer**
- III. Pledge of Allegiance**
- IV. Roll Call**
- V. Approval of Agenda**
- VI. Public Comment Period**

The Public Comment Period is a period reserved for comments by the public. Items that were or are scheduled to be the subject of public hearings conducted at the same meeting or another meeting during the same week shall not be discussed. A total of 30 minutes is allocated with each individual being allowed no more than 3 minutes. Individuals who registered with the City Clerk to speak will speak in the order registered until the allocated 30 minutes expires. If time remains after all persons who registered have spoken, individuals who did not register will have an opportunity to speak until the allocated 30 minutes expires.

VII. Special Recognitions

1. Latricia Clark - Alerted Neighbors to Escape Burning Home
2. 2019 North Carolina City and County Communicators (NC3C) Excellence in Communication Awards

VIII. Appointments

3. Appointments to Boards and Commissions

IX. Consent Agenda

4. Minutes from the March 14, 2019 and March 25, 2019 City Council meetings
5. Resolution and Deed of Release to abandon a 5" electrical easement located on Tax Parcel No. 83972
6. Resolution and Deed of Release to abandon a 70' utility easement on Tax Parcel Nos. 83972 and 15578
7. Resolution requesting permission to locate public art within North Carolina Department of Transportation right of way along 10th Street
8. Authorization to submit the Greenville Transportation Accessibility, Safety and Connectivity (TASC) Investment for the 2019 Better Utilizing Investment to Leverage Development (BUILD) Grant Opportunity
9. Approval of Task Order #1 for the Construction Engineering and Inspection (CEI) and Construction Materials Testing (CMT) On-Call Contract
10. Approval of Task Order #2 for the Construction Engineering and Inspection (CEI) and Construction Materials Testing (CMT) On-Call Contract
11. Contract award for the 2019 Street Resurfacing Project
12. Contract Award for the Pavement Condition Survey

X. New Business

13. Presentation of the proposed Fiscal Year 2019-20 operating budget for the following entities:
 - a. Pitt-Greenville Convention & Visitors Authority
 - b. Sheppard Memorial Library
 - c. Greenville Utilities Commission
14. Contract award for construction of the Sycamore Hill Gateway Plaza

15. Resolution to convey the City-owned lot (PIN 26957), which is situated adjacent to 302 South Greene Street (Chamber of Commerce), by private sale to the Historic Preservation Foundation of NC, Inc., to be the future site of the historic Jones-Lee House
16. Acceptance of Conveyance of Property from Redevelopment Commission to City of Greenville

XI. City Manager's Report

XII. Comments from Mayor and City Council

XIII. Adjournment



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Appointments to Boards and Commissions

Explanation: **Abstract:** The City Council fills vacancies and makes appointments on the City's boards and commissions. Appointments are scheduled to be made to eight of the boards and commissions.

Explanation: City Council appointments need to be made to the Community Appearance Commission, Environmental Advisory Commission, Greenville Bicycle and Pedestrian Commission, Housing Authority, Human Relations Council, Planning & Zoning Commission, Recreation & Parks Commission, and the Youth Council.

The City Council updated the Board and Commission Policy on October 9, 2017 to include a provision for extended vacancies:

Nominations for Extended Vacancies

In the event there is a vacancy on a City board or commission which has been on the City Council agenda for appointment by City Council for more than three (3) calendar months in which a regular City Council meeting has been held, then any Council Member may make a nomination to fill the vacancy without regard to any other provision relating to who has the authority to make the nomination. If there is more than one nomination, the appointment shall be conducted in accordance with the procedure for nominations and elections in Robert's Rules of Order.

Under this provision, the following seats are open to nominations from the City Council:

- Nathaniel Hamilton - Environmental Advisory Commission, Educator of Natural or Physical Sciences/Physician Seat
- Heena Shah - Human Relations Council
- Maurice Whitehurst - Human Relations Council, Pitt Community College Seat

Fiscal Note: No direct fiscal impact.

Recommendation: Make appointments to the Community Appearance Commission, Environmental Advisory Commission, Greenville Bicycle and Pedestrian Commission, Housing Authority, Human Relations Council, Planning & Zoning Commission, Recreation & Parks Commission, and the Youth Council.

ATTACHMENTS:

☐ **Muni_Report_Appointments_to_Boards_and_Commissions_998631**

Appointments to Boards and Commissions

May 2019

Community Appearance Commission

Council Liaison: Council Member Rick Smiley

Name	District #	Current Term	Reappointment Status	Expiration Date
Karen Brookins	3	Filling unexpired term	Resigned	July 2021
Jeffrey Johnson	4	Second term	Ineligible	April 2019

Environmental Advisory Commission

Council Liaison: Council Member Brian Meyerhoeffer, Jr.

Name	District #	Current Term	Reappointment Status	Expiration Date
Drake Brinkley	5	First term	Eligible	April 2019
Nathaniel Hamilton	5	Filling unexpired term	Resigned	April 2019

(An educator of the natural or physical sciences, or physician)

Greenville Bicycle & Pedestrian Commission

Council Liaison: Council Member Will Bell

Name	District #	Current Term	Reappointment Status	Expiration Date
Connor Tanferno	3	First term	Resigned	January 2021

Housing Authority

Council Liaison: Council Member Monica Daniels

Name	District #	Current Term	Reappointment Status	Expiration Date
Reginald Watson <i>(Mayor P.J. Connelly)</i>	1	Second term	Ineligible	May 31, 2019

Human Relations Council

Council Liaison: Mayor Pro-Tem Rose Glover

Name	District #	Current Term	Reappointment Status	Expiration Date
Isaac Chemmanam	4	First term	Resigned	Sept. 2019
Heena Shah	1	Second term	Ineligible	Sept. 2018
Maurice Whitehurst (Pitt Community College)	2	Second term	Did not meet attendance Requirement	Oct. 2015

Planning & Zoning Commission

Council Liaison: Council Member Will Bell

Name	District #	Current Term	Reappointment Status	Expiration Date
Terry King (Mayor P.J. Connelly)	2	Second term	Ineligible	May 31, 2019
Michael Overton (Council Member Brian Meyerhoeffer)	5	First term	Eligible	May 31, 2020
Doug Schrade (Council Member William Litchfield)	1	Second term	Ineligible	May 31, 2019

Recreation & Parks Commission

Council Liaison: Council Member Monica Daniels

Name	District #	Current Term	Reappointment Status	Expiration Date
Byron Aynes (Mayor P.J. Connelly)	4	Filling unexpired term	Eligible	May 31, 2019
Ebonee Downey (Mayor Pro-Tem Rose Glover)	1	Filling unexpired term	Resigned	May 31, 2020
Hassan Hilliard (Mayor P.J. Connelly)	1	First term	Eligible	May 31, 2019
Michael Saad (Council Member William Litchfield)	5	First unexpired term	Eligible	May 31, 2019

Garret Taylor 3 Second term Ineligible May 31, 2019
(Council Member Brian Meyerhoeffer)

Youth Council

Council Liaison: Mayor Pro-Tem Rose Glover

Name	Current Term	Reappointment Status	Expiration Date
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6 spots open

*Seats that are open to nomination from the City Council are highlighted.

Applicants for Community Appearance Commission

Gregory Hemby
1410 W. 6th Street
Greenville, NC 27834

Application Date: 4/22/2018

Home Phone: (202) 412-4369

Business Phone:

Email: hembyg@gmail.com

District #: 1

Applicants for Environmental Advisory Commission

Orrin Allen Beasley
3601 Live Oak Lane
Greenville, NC 27858

Application Date: 12/8/2015

District #: 5

Home Phone: (252) 216-6099

Business Phone: (252) 216-6099

Email: oab0119@gmail.com

Applicants for Greenville Bicycle & Pedestrian Commission

John A. Kohler
412 Oxford Road
Greenville, NC 27858

Application Date: 10/18/2018

District #: 4

Home Phone: (843) 576-9798

Business Phone: (252) 744-2637

Email: john.kohler.sr@gmail.com

Applicants for Housing Authority

Robert Scott Barker
2212 Lexington Farms
Greenville, NC 27834

Application Date: 4/18/2016

District #:

Home Phone: (252) 689-3596
Business Phone: (252) 757-3787
Email: scott.barker@suddenlink.net

Gregory Hemby
1410 W. 6th Street
Greenville, NC 27834

Application Date: 4/22/2018

District #: 1

Home Phone: (202) 412-4369
Business Phone:
Email: hembyg@gmail.com

Alicia Richardson
108 Concord Drive Apt. C
Greenville, NC 27834

Application Date: 9/6/2018

District #: 2

Home Phone: (252) 367-7371
Business Phone:
Email: aliciarichardson24@yahoo.com

Applicants for Human Relations Council

Alaric Martin
3195 Boardwalk Lane Apt. #9
Greenville, NC 27834

District #: 2

Keshia B. Williams
945 Spring Forest Rd.
Greenville, NC

District #: 4

Travis Williams
3408 Evans Street Apt. E
Greenville, NC 27834

District #: 5

Stephanie Winfield
1103 Red Banks Road
Greenville, NC

District #: 4

Application Date: 9/4/2018

Home Phone: (919) 924-1631

Business Phone:

Email: amartin@gmail.com

Application Date: 4/24/2018

Home Phone: 252-558-3620

Business Phone:

Email: williak5@pitt.k12.nc.us

Application Date: 4/16/2017

Home Phone: (252) 412-4584

Business Phone:

Email: taft1986@yahoo.com

Application Date: 7/14/2017

Home Phone:

Business Phone:

Email: ladona12@gmail.com

Applicants for Planning and Zoning Commission

Jonathan Ganzert
302 South Summit Street
Greenville, NC 27858

Application Date: 2/19/2019

District #:

Home Phone: (704) 550-6031

Business Phone:

Email: ganzert@gmail.com

Alaric Martin
3195 Boardwalk Lane Apt. #9
Greenville, NC 27834

Application Date: 9/4/2018

District #: 2

Home Phone: (919) 924-1631

Business Phone:

Email: amartin@gmail.com

Billy Parker
305 Woodspring Lane
Greenville, NC 27834

Application Date: 2/26/2019

District #: 1

Home Phone: (252) 714-4111

Business Phone: (252) 756-2388

Email: parkersbarbecue@gmail.com

Deryck Steven Wilson
1744 Beaumont Drive
Greenville, NC 27858

Application Date: 11/27/2017

District #: 4

Home Phone: (252) 714-5950

Business Phone: (252) 321-5200

Email: deryck.wilson@me.com

Applicants for Recreation and Parks Commission

Gregory Hemby
1410 W. 6th Street
Greenville, NC 27834

District #: 1

Anna L. Logemann
1105 Turtle Creek Road Unit G
Greenville, NC 27858

District #: 4

Anthony Mizzelle
1988-B Hyde Drive
Greenville, NC 27858

District #: 4

Christopher Powell
108 B Chandler Drive
Greenville, NC 27834

District #: 1

Application Date: 4/22/2018

Home Phone: (202) 412-4369

Business Phone:

Email: hembyg@gmail.com

Application Date: 4/26/2017

Home Phone: (336) 624-6514

Business Phone:

Email: annlogemann85@gmail.com

Application Date: 5/28/2016

Home Phone: (252) 215-9245

Business Phone: (252) 290-5515

Email: anthonymizzelle.am@gmail.com

Application Date: 6/24/2016

Home Phone: (252) 714-0286

Business Phone:

Email: christopherpowell@yahoo.com

Applicants for Youth Council

None.



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Minutes from the March 14, 2019 and March 25, 2019 City Council meetings

Explanation: Proposed minutes from regular City Council meetings held on March 14, 2019 and March 25, 2019 are presented for review and approval.

Fiscal Note: There is no direct cost to the City.

Recommendation: Review and approve proposed minutes from regular City Council meetings held on March 14, 2019 and March 25, 2019

ATTACHMENTS:

- ▣ [Proposed_Minutes_of_the_March_14,_2019_City_Council_Meeting_1107003](#)
- ▣ [Proposed_Minutes_for_the_March_25,_2019_City_Council_Meeting_1107411](#)

PROPOSED MINUTES
MEETING OF THE CITY COUNCIL
CITY OF GREENVILLE, NORTH CAROLINA
THURSDAY, MARCH 14, 2019



A regular meeting of the Greenville City Council was held on Thursday, March 14, 2019 in the Council Chambers, located on the third floor at City Hall, with Mayor P. J. Connelly presiding. Mayor Connelly called the meeting to order at 6:00 pm. Mayor Pro-Tem Glover gave the invocation, followed by the Pledge of Allegiance.

Those Present:

Mayor P. J. Connelly, Mayor Pro-Tem Rose H. Glover and Council Members Monica Daniels, Will Bell, Rick Smiley, William F. Litchfield, Jr. and Brian V. Meyerhoeffer, Jr.

Those Absent:

None

Also Present:

City Manager Ann E. Wall, City Attorney Emanuel D. McGirt, City Clerk Carol L. Barwick and Deputy City Clerk Polly Jones

APPROVAL OF THE AGENDA

City Manager Ann Wall stated the applicant has requested that the Bobby W. Joyner rezoning be continued to April 11, 2019.

Council Member Smiley moved that the agenda be approved as amended. Council Member Bell seconded the motion, which passed by unanimous vote.

PUBLIC COMMENT PERIOD

Mayor Connelly opened the public comment period at 6:08 pm, explaining procedures which should be followed by all speakers.

Robert O'Neal – 1900 Allen Road

Mr. O'Neal again expressed significant concern about noise levels coming from the landfill and how that noise impacts his family and particularly his son who has Down Syndrome. He asked that the City get involved in finding a solution.



Hearing no one else who wished to speak during the Public Comment period, Mayor Connelly closed the public comment period at 6:13 pm.

SPECIAL RECOGNITIONS

GIRL SCOUT PROCLAMATION

Mayor Connelly read the following proclamation recognizing the Girl Scouts on their 107th anniversary:

WHEREAS, the year 2019 marks the 107th anniversary of Girl Scouts of the USA, the largest and most successful leadership program for girls in the world; and

WHEREAS, Girl Scouts unleashes the G.I.R.L. (Go-getter, Innovator, Risk-taker, Leader)[™] in every girl, preparing her for a lifetime of leadership; and

WHEREAS, Girl Scouts combines time-tested, research-backed methods with exciting, modern programming that speaks to today's girls and is designed to cater to the strengths of girls' leadership development; and

WHEREAS, Girl Scouts offers girls 21st century programming in science, technology, engineering, and math (STEM); the outdoors; entrepreneurship; and beyond, helping girls develop invaluable life skills and take the lead early and often; and

WHEREAS, as the world's premier leadership development organization for girls, Girl Scouts welcomes girls of all backgrounds and interests who want to develop the courage, confidence, and the character to make the world a better place; and

WHEREAS, research shows that girls learn best in an all-girl, girl-led environment in which their specific needs are addressed and met; and

WHEREAS, the Girl Scout Award, the highest and most prestigious award in Girl Scouting, calls on Girl Scouts in grades 9-12 to take on projects that have a measurable and sustainable impact on a community by first assessing a need, designing a solution, completing a project, and inspiring others to sustain it; and

WHEREAS, with more than 100 years of experience, Girl Scouts brings a wealth of knowledge to programs that deliver girls cornerstone experiences with benefits that last a lifetime; and

WHEREAS, more than 50 million women are Girl Scouts alums, and 2.6 million girls and adults are current members.



NOW, THEREFORE, I, P.J. Connelly, Mayor of Greenville, North Carolina, applaud the Girl Scout Movement and NC Coastal Pines for providing girls with a safe, inclusive, all-girl space where they can hone their skills and develop leadership abilities and do hereby proclaim the week of March 11 – 15, 2019 as

GIRL SCOUT WEEK

This 1st day of March 2019.

P.J. Connelly, Mayor

BARBARA AVERY – RECREATION AND PARKS DEPARTMENT RETIREE

City Manager Ann Wall, accompanied by Mayor Connelly and Recreation and Parks Director Gary Fenton, recognized Barbara Avery on the occasion of her retirement from the Recreation and Parks Department. She read and presented her with a plaque honoring her 30 years of service to the citizens of Greenville.

HANK HARDEN – RECREATION AND PARKS DEPARTMENT RETIREE

Mr. Harden was not in attendance, but City Manager Wall acknowledged his 20 years of service to the citizens of Greenville.

APPOINTMENTS

APPOINTMENTS TO BOARDS AND COMMISSIONS

Council Member Bell moved to appoint Dionne Evans to a first three-year term on the Greenville Bicycle and Pedestrian Commission. Council Member Smiley seconded the motion, which passed by unanimous vote.

CONSENT AGENDA

AUTHORIZATION TO SUBMIT AN APPLICATION TO THE NORTH CAROLINA DEPARTMENT OF COMMERCE FOR THE RURAL HOUSING RECOVERY INFRASTRUCTURE GRANT– Resolution No. 013-19



STREET AND PORT TERMINAL ROAD FROM RA20 (RESIDENTIAL-AGRICULTURAL) TO R6A-RU (RESIDENTIAL [MEDIUM DENSITY]-RESTRICTED RESIDENTIAL OVERLAY DISTRICT) – Ordinance No. 19-016

Chief Planner Chantae Gooby stated Happy Trail Farms, LLC has requested to rezone 17.193 acres located near the northeastern corner of the intersection of East 10th Street and Port Terminal Road from RA20 (Residential-Agricultural) to R6A-RU (Residential [Medium Density]-Restricted Residential Overlay District).

Based on the possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 599 trips to and from the site on East 10th Street, which is a net increase of 73 additional trips per day.

In 1976, the property was incorporated into the City's extra-territorial jurisdiction (ETJ) and zoned RA20 as part of a large-scale ETJ extension. Water will be provided by Eastern Pines Water Corporation. Sanitary sewer is located near The Davis Apartments. There are no known effects on historic sites. The property is located in the Hardee Creek Watershed. If stormwater rules apply, it would require 10-year detention and nitrogen and phosphorous reduction. It is not located in the Special Flood Hazards Area. Therefore, development is not subject to the Flood Damage Prevention Ordinance.

Under the current zoning, the site could accommodate 50-55 single-family lots. Under the proposed zoning, the site could accommodate 40-45 duplex lots (80-90 units). The anticipated build-out is within 2-3 years.

Surrounding land uses and zoning are as follows:

North: RA20 - Wooded (City-owned)

South: CG - Two (2) vacant lots; CN - One (1) outbuilding;

RA20 - One (1) single-family residence and two (2) vacant lots

East: RA20 - Farmland and wooded

West: CH - Three (3) single-family residences and RA20 - East Carolina Masonry and one (1) single-family residence and one (1) vacant lot

Ms. Gooby stated that, in staff's opinion, the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use Plan and Character Map. "In compliance with the comprehensive plan" should be construed as meaning the requested zoning is (i) either specifically recommended in the text of the Horizons Plan (or addendum to the plan) or is predominantly or completely surrounded by the same or compatible and desirable zoning and (ii) promotes the desired urban form. The requested district is considered desirable and in the public interest, and staff recommends approval of the requested rezoning.

Ms. Gooby stated the Planning and Zoning Commission voted unanimously to recommend approval of the request at its February 19, 2019 meeting.



Mayor Connelly declared the public hearing for the proposed rezoning open at 6:30 pm and invited anyone wishing to speak in favor to come forward.

Mike Baldwin – No Address Given

Mr. Baldwin, representing the applicant, stated he is available to answer any questions the Council may have.

Hearing no one else wishing to speak in favor of the proposed rezoning, Mayor Connelly invited comment in opposition. Hearing none, Mayor Connelly closed the public hearing at 6:33 pm.

Council Member Bell moved to adopt the ordinance to rezone 17.193 acres located near the northeastern corner of the intersection of East 10th Street and Port Terminal Road from RA20 (Residential-Agricultural) to R6A-RU (Residential [Medium Density]-Restricted Residential Overlay District). Council Member Meyerhoeffer seconded the motion, which passed by unanimous vote.

OTHER ITEMS OF BUSINESS

RESOLUTION APPROVING THE ISSUANCE OF UP TO \$90,000,000 GREENVILLE UTILITIES COMMISSION COMBINED ENTERPRISE SYSTEM REVENUE BONDS, SERIES 2019 – Resolution No. 011-19

Chris Hill, Chief Financial Officer with the Greenville Utilities Commission (GUC) explained that, in order to provide funding for projects associated with its capital improvement plan, GUC needs to move forward with the issuance of up to \$90 million in revenue bonds. On February 21, 2019, the GUC Board of Commissioners adopted a resolution that authorizes and directs the officers, agents and employees of GUC to do all acts and things required of them by the provisions of said resolution and recommends that the City Council adopt a similar resolution which:

- Makes the findings and determinations required by the Local Government Commission (LGC) in connection with the authorization and issuance of the Series 2019 Bonds
- Recommends professionals to work with the City and the Commission in connection with the issuance and sale of the Series 2019 Bonds - Hilltop Securities Inc., as Financial Advisor, Womble Bond Dickinson (US) LLP, as Bond Counsel, McGuire Woods LLP, as underwriters' counsel, The Bank of New York Mellon Trust Company, N.A, as Trustee and Bond Registrar, and Black and Veatch International Company and Raftelis Financial Consultants, Inc., as Consulting Utility Advisors.
- Approves the Commission's selection and recommendation of J.P. Morgan Securities LLC and FTN Financial Capital Markets, a division of First Tennessee Bank National Association, as underwriters of the Series 2019 Bonds



Following a general discussion, Council Member Smiley moved to adopt the resolution approving the issuance of up to \$90 million GUC combined enterprise system revenue bonds, Series 2019. Council Member Litchfield seconded the motion, which passed by unanimous vote.

RESOLUTION APPROVING MATCHING FUNDS FOR AN APPLICATION BY TAFT FAMILY VENTURES TO THE NORTH CAROLINA DEPARTMENT OF COMMERCE FOR A BUILDING REUSE GRANT – Resolution No. 012-19

Economic Development Planner Jared Stallings stated that Taft Family Ventures is considering relocating their corporate headquarters to Dickinson Avenue and intends to apply for a Building Reuse Grant to assist with the renovation costs associated with their new, potential headquarters. Taft Family Ventures will be relocating their current jobs to the new Uptown location and hiring an additional 16 new employees at the facility. They will be requesting \$200,000 in funding from the NC Department of Commerce and, if the grant is awarded, the City will be required to commit a cash match of 5% of the grant amount toward the project for a total cash match of up to \$10,000.

Upon motion by Council Member Smiley and second by Council Member Bell, the City Council voted unanimously to adopt the resolution for the Building Reuse Grant.

RESOLUTION APPROVING A JOB CREATION GRANT FOR THE TAFT FAMILY VENTURES HEADQUARTERS

Economic Development Planner Jared Stallings stated that Taft Family Ventures is redeveloping a vacant building at 631 Dickinson Avenue for their new corporate headquarters. The relocation and expansion of their corporate headquarters will assist in the revitalization of the Dickinson Avenue Corridor and West Greenville Area. The project is expected to increase the taxable property base, stimulate the local economy, promote business, and provide employment opportunities. The anticipated headquarters will require roughly \$3.2 million in acquisition and renovation costs and locate 38 full-time jobs, 16 of which are new, to the uptown area.

Mr. Stallings explained that Job Creation Grant funding is based off of an increase in property tax generated from the investment, with 75% of the increase being returned to the business as an incentive. The grant is awarded in annual installments with a grant period ranging from three to five years, but up to seven years for transformative projects. Based on Office of Economic Development estimates, a seven-year grant period for Taft Family Ventures will result in an incentive totaling \$69,560.40 (estimated). Due to the incentive being generated through a property tax offset, the incentive will have a net-neutral budget impact.



Mr. Stallings noted that, although a supporting resolution was included in the agenda packet, it will be necessary to schedule a public hearing before its adoption. He recommended setting the public hearing date for April 11, 2019.

Upon motion by Council Member Smiley and second by Council Member Bell, the City Council voted unanimously to set a public hearing for April 11, 2019 in the Council Chambers at 6:00 pm, or as soon thereafter as may be heard.

DISCUSSION OF GATEWAY SIGNAGE

Public Works Director Kevin Mulligan showed a photograph depicting the current gateway signage into Greenville:

Existing Signage for Arrival Into Greenville

- Location: Stantonsburg and Allen Rd



Mr. Mulligan then explained North Carolina Department of Transportation requirements for installation of a new gateway sign:

- An encroachment permit is required
- Placement must be outside of the “clear recovery zone” which, on US 264, is about 30 feet from the travel lane
- A maintenance plan is required
- Signage must not impair structural integrity of any roadway or overpass

He then showed examples of gateway signage in other locations which could potentially serve as the basis of a design for Greenville, with costs of the signage as illustrated ranging



from \$150,000 to \$1.2 million. Designs ranged from free-standing traditional designs to some that were more art-influenced to designs on the sides of overpasses and, in some cases, incorporated lighting.

A general discussion followed resulting in the suggestions that the existing sign be moved to the airport entryway, potentially including the local university arts department in design before engaging outside artists and that the design should clearly incorporate "Greenville" in the design. There was concensus that staff move forward on developing ideas, but no specific action was taken.



CITY MANAGER'S REPORT



City Manager Wall gave no report.



COMMENTS FROM THE MAYOR AND CITY COUNCIL



The Mayor and City Council made comments about past and future events.



CLOSED SESSION (ADDED)



Council Member Smiley moved to enter closed session in accordance with G.S. §143-318.11(a)(5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property, said property being the building and land owned Hopf/Wells Co-Trustees, Rosa B. Wilson Heirs and Earl Rayfield Heirs. Council Member Bell seconded the motion, which passed by unanimous vote.

Mayor Connelly declared the City Council in Closed Session at 7:16 pm and called a brief recess to allow Council Members to relocate to Conference Room 337.

Upon conclusion of the closed session discussion, motion was made by Council Member Smiley and seconded by Council Member Bell to return to open session. Motion was approved unanimously, and Mayor Connelly returned the City Council to open session at 7:31 pm.



ADJOURNMENT



Council Member Bell moved to adjourn the meeting, seconded by Council Member Smiley. There being no further discussion, the motion passed by unanimous vote and Mayor Connelly adjourned the meeting at 7:32 pm.

Respectfully submitted,

A handwritten signature in cursive script that reads "Carol L. Barwick".

Carol L. Barwick, CMC
City Clerk

PROPOSED MINUTES
MEETING OF THE CITY COUNCIL
CITY OF GREENVILLE, NORTH CAROLINA
MONDAY, MARCH 25, 2019



A regular meeting of the Greenville City Council was held at 6:00 pm, on Monday, March 25, 2019 in the Council Chambers, located on the third floor at City Hall, with Mayor P. J. Connelly presiding. The meeting was called to order, followed by the invocation and the Pledge of Allegiance by Council Member Will Bell.

Those Present:

Mayor P. J. Connelly; Mayor Pro-Tem Rose H. Glover; and Council Members Brian V. Meyerhoeffer, Jr., Monica Daniels, Will Bell, Rick Smiley, and William F. Litchfield, Jr.

Those Absent:

None

Also Present:

Ann E. Wall, City Manager; Emanuel D. McGirt, City Attorney; Carol L. Barwick, City Clerk; and Polly W. Jones, Deputy City Clerk

APPROVAL OF THE AGENDA

City Manager Wall requested that the City Council consider the continuance of one item on the agenda, presentation by the Redevelopment Commission, due to the Chairperson not being able to attend tonight's meeting.

Motion was made by Council Member Bell and seconded by Council Member Daniels to approve the agenda with the recommended change. Motion carried unanimously.

PUBLIC COMMENT PERIOD

No comments were made by the public during this period.



SPECIAL RECOGNITION

Ms. Barbara Taft – JOY Soup Kitchen

Mayor Connelly stated that recently, Ms. Barbara Taft retired from doing so many good things for our community, especially her service to the JOY Soup Kitchen. The JOY Soup Kitchen serves a free meal daily to the community, meeting the needs of those who have found themselves in hard times and are in need of a hot meal and neighborly compassion. The City is so grateful for the many volunteers that have given their time to help prepare and serve meals at the JOY Soup Kitchen.

Mayor Connelly stated that he and the City Council would like to recognize Ms. Taft for her work as an early pioneer of the JOY Soup Kitchen, contributing her service and leadership for over 20 years. Under Ms. Taft's guidance, the JOY Soup Kitchen has served over 355,000 meals to date, which is absolutely impressive.

On behalf of the City of Greenville, Mayor Connelly thanked Ms. Taft for her tireless commitment to helping others and for the impact that she had on our community. It is absolutely wonderful to be able to honor someone who has touched so many lives, and it is amazing to hear stories from people who have been so fortunate because of her service.

Mayor Pro-Tem Glover stated that she is excited that Ms. Taft has worked long enough to enjoy her retirement. God is aware of her service to our community and he will bless Ms. Taft for serving our community tirelessly.

Mayor Pro-Tem Glover stated that even though there may not be a replacement for what she has done for many years, perhaps, there is someone available who can carry on providing meals at the JOY Soup Kitchen. It is no doubt that Ms. Taft will still visit the JOY Soup Kitchen occasionally to give instructions on what needs to be done to continue this much needed service in our community.

Ms. Taft stated that she began her service to the community in 1974 on a Friday when she and a girlfriend had nothing else to do. The Lord advised her to open a kitchen, but, unfortunately, they did not have a building to provide that service. They had to serve the meals from a church and soon they received the money necessary to provide meals weekly and eventually reduced the service to five days a week. She enjoyed doing it and thank God for allowing her to do it.

Mayor Pro-Tem Glover presented Ms. Taft with a plaque from the City of Greenville, recognizing her service and dedication to the community for over 20 years at the JOY Soup Kitchen.

Council Member Daniels commended and thanked Ms. Taft for her service to the community.



CONSENT AGENDA

City Manager Wall introduced the following items on the Consent Agenda:

- Minutes from the December 13, 2018, January 7, 2019, and February 11, 2019 City Council meetings and the January 7, 2019 City Council Workshop
- Resolution establishing just compensation for acquisition of property at 294 Millbrook Street through the North Carolina Hurricane Matthew Hazard Mitigation Grant Program – (Resolution No. 014-19)
- Resolution accepting dedication of rights-of-way and easements for Parkside Bluffs Section 2, Phase 1A, Lot 4 and Blackwood Ridge - Phase One – (Resolution No. 015-19)
- Master right-of-way encroachment agreement with Cebridge Acquisition, L.P.
- Municipal agreement with the North Carolina Department of Transportation for betterments for the Fire Tower Road Multi-Lane Improvement Project from west of East Arlington Boulevard to Fourteenth Street
- Municipal agreement with the North Carolina Department of Transportation for betterments for the Fire Tower Road and Portertown Road Multi-Lane Improvement Project
- Municipal agreement with the North Carolina Department of Transportation for additional betterments for the Allen Road Multi-Lane Improvement Project
- Report on Bids and Contracts Awarded
- Various tax refunds greater than \$100

Motion was made by Council Member Smiley and seconded by Council Member Litchfield to approve the items under the Consent Agenda. Motion carried unanimously.

NEW BUSINESS

PRESENTATIONS BY BOARDS AND COMMISSIONS



Greenville Bicycle and Pedestrian Commission

Chairperson Chad Carwein gave a report of the Greenville Bicycle and Pedestrian Commission's (GBAPC) activities since his last report of April 9, 2018 to the City Council. Currently, the GBAPC has one member vacancy to fill. For seven years now, the members have conducted manual bicycle and pedestrian counts, which is a part of the National Bicycle and Pedestrian Documentation Process. The numbers for 2018, at least on the pedestrian side, are inflated due to a home football game taking place in Greenville. Annually during the fall, pedestrian and bicycle counts are done on Fifth and Evans Streets as well as on the greenway near the Dog Park. For 2018, 1,810 pedestrians were crossing the intersection at Fifth and Evans Streets. On the greenway, the counts were 51 cyclists and 279 pedestrians within a two-hour period, once on a Wednesday evening and Saturday afternoon.

Chairperson Carwein reported that May is National Bike Month and the preliminary date for the GBAPC's activities is May 5, 2019. The location and time have not be set at this time for the events. Again this year, the members will be offering a Smart Cycling Course and a proclamation will be provided by the Office of the Mayor. Two other events are being held during May, but they are not hosted by the GBAPC. A Bike Fiesta is scheduled for May 19 and a Ride of Silence, which recognizes people who have lost their lives while cycling, will take place on May 15 at 6:00 p.m. at the Bicycle Post. During the rides, cyclists receive great support from the Greenville Police Department to keep them safe while riding. The GBAPC will reach out to their partner organizations for available bicycles and helmets, if the Mayor, City Council, and City staff would like participate in these rides.

Chairperson Carwein reported that to continue the GBAPC's plans for 2019, the members will be doing pedestrian and cyclist counts again in the fall of 2019. The members will continue to assist in implementing and promoting the active Transportation Master Plan. The GBAPC is about a year and half into the adoption of that plan. A lot of good recommendations have already been implemented and there are many more to come over the next few years.

Chairperson Carwein reported that he served on the 2045 Metropolitan Planning Organization Master Transportation Plan and that includes more than just bicycling and pedestrian amenities. It also includes road infrastructure and the GBAPC will continue to be a part of developing that plan, having representatives on that Committee.

Chairperson Carwein reported that the members will continue to promote new greenway extensions as well as bicycle and pedestrian safety in general. There has been a long road trying to get Greenway Phase 3B, which is the next extension of the greenway from the Town Common area out to the railroad underpass. The bids that came in were more than what was budgeted. The members are looking forward to continuing to advocate for those extensions to the greenway and promoting the use and development of the greenway system. The GBAPC looks forward to partnering with the City of Greenville and North Carolina Department of Transportation with the public input process on these projects.



Chairperson Carwein reported that a temporary moratorium on shared use alternative transportation system was not passed at a meeting. But, the outcome of that meeting was City staff would look into and research regulations within the City of Greenville, other cities and around the nation. The GBAPC will do research and contribute to the City having ordinances, rules, or infrastructure in place to make sure that everyone is safe and able to use those systems responsibly.

Chairperson Carwein reported that thanks to the City Council the Cycle NC Mountains to Coast ride is coming to Greenville next fall on October 3, 2020. This is a huge opportunity for the City to showcase its support for bicyclists and pedestrians. It is a huge opportunity to grow local economy and to show off all of the investments made in this community.

Chairperson Carwein thanked Council Member Bell for being actively engaged with the GBAPC.

Recreation and Parks Commission

Chairperson Nicole Caswell gave a detailed report of the efforts of the Recreation and Parks Commission and an update of the accomplishments, challenges, and plans of the Recreation and Parks Department. The Commission meets the second Wednesday of the month, excluding August and September, at 5:30 p.m. in the Council Chambers at City Hall. Council Member Monica Daniels serves as the City Council Liaison to the Commission.

Chairperson Caswell reported that annually, Director of Recreation and Parks Gary Fenton hosts an evening tour of the parks and facilities to give a realistic look of the facilities and services offered by the Department. This year's tour is scheduled for July 26.

Chairperson Caswell reported that athletics continue to play a big role in the services provided for youth, adults, and those with special needs. One focal point for such services is Stallings Stadium at Elm Street Park, where many Little League games and tournaments take place. Another focal point for athletics is the Sarah Vaughn Field of Dreams, where the Exceptional Community Baseball League hosts its games.

Chairperson Caswell reported that the home field for the Jackie Robinson Baseball League is the diamond at Thomas Foreman Park, where recent significant improvements were made to the concession building. A large portion of the adult athletic programs as well as many youth basketball games take place at H. Boyd Lee Park and in the gym.

Chairperson Caswell reported that a variety of tennis services is offered at the River Birch Tennis Center in Evans Park. Aquatics has a year round emphasis at the Department whether for swim lessons, health reasons, competition, or simply fun thanks to the indoor pool at the Aquatics and Fitness Center.

Chairperson Caswell reported that in the warmer months, the Department operates the Splashpoint Playground at the Dream Park and the community pool in Guy Smith Park. The community pool is almost 50 years old and is showing its age. Groundwater pressure



under the dive tank recently caused the tank to shift and the deck around it to rise and crack. Fortunately, there seems to be no damage to the main pool, which is essential to summer operation.

Chairperson Caswell reported that while the dive tank was a nice amenity, it is not an essential one. Contractors are in the process of demolishing the dive tank and replacing the pump to insure that the water pressure through the filter system is appropriate for the smaller quantity of water. Unless some additional damage is uncovered during repairs, the pool is anticipated to be opened for the season on June 8.

Chairperson Caswell reported that the SplashPoint Playground at the Dream Park will open on the weekends, starting May 25 with daily openings from June 10 thru August 11. SplashPoint will then return to weekend only operation thru Labor Day.

Chairperson Caswell reported that at the South Greenville Recreation Center, staff continues to work to expand recreation opportunities for the community, including an emphasis on jobs and activities for area teens. The massive renovation and Center expansion that took place two years ago have resulted in a continuing increase in participation, especially in the fitness room, gym, and in overall programming.

Chairperson Caswell reported that Free Play Hours remain a priority, but the Department is also able to offer various programs such as summer day camps, the Junior NBA Basketball League, Ladies' Night Basketball, and Sports Clinic. Additionally, the South Greenville Recreation Center is one of the two sites that house the City's Police Athletic League (PAL) Program. This November, the PAL hosted a community partnership with law enforcement and a local business club games stop that resulted in a successful game play event, which attracted countless youngsters.

Chairperson Caswell reported that also during the school year, the South Greenville Gym hosts the South Greenville Elementary School's Physical Education classes, which is a great example of a governmental cooperation between the City and County. The school has contributed to the capital cost for the original renovation and assists with some of the utility cost during the school year.

Chairperson Caswell reported that another facility that has seen major renovations is the Eppes Recreation Center where staff is also working to expand programming and where another PAL program takes place. This facility is also the home to the C. M. Eppes Alumni and the Adult Summer Basketball League, one of the Department's longest running programs.

Chairperson Caswell reported that all of the centers are bustling with activities such as sports programming and the arts as well as gymnastics and fencing at the Elm Street Center. As usual this time of the year, staff is gearing up for the summer camps, including all kind of nature, sports, art, and special needs day camps. There are more than 2,800 openings with over 100 individual camp sessions offered, each about a week or two weeks long. It is not



even April yet, and 1,200 spots have already been taken. Most, if not all, of the camp sessions will reach maximum registration.

Chairperson Caswell reported that the Center for Arts and Crafts in Jaycee Park serves as headquarters for a variety of performing and cultural arts for both youth and adults. The few programs take place at other locations. The arts program is bigger than it ever has been as staff tries to accommodate the demand for more programs than are already offered.

Chairperson Caswell reported that the Aquatics and Fitness Center, which is open seven days a week, offers the citizens all kind of recreation and health opportunities, including swimming, fitness equipment, aerobics, basketball, pickleball, weightlifting, and a variety of exercise classes. Although, there has been some staff changes at River Park North, the park, Science and Nature Center, and STEAM Lab continue to host a wide variety of popular recreational and educational programs and services. A capital project creating an ADA accessible paddling and kayaking facility is underway and completion is scheduled for early summer.

Chairperson Caswell reported the Drew Steele Center continues its popularity while also serving as the homebase for the Department's specialized recreation staff, who plans services there and at other sites across the City. This year's Valentine's Party attracted several hundred participants and has become so popular that another vendor may have to be found for it.

Chairperson Caswell reported that the next big event will be the Special Olympics Spring Game at J. H. Rose High School starting at 9:00 a.m. on April 5. Operations at Bradford Creek Public Golf Course have continued under the management at Billy Casper Golf. While play from November thru February is never tremendously high in Eastern North Carolina, there has been an excessive amount of rainfall thru those months and play at all golf courses have been impacted. Hopefully, there will be a jump in activities as weather starts to warm.

Chairperson Caswell reported that special events are increasing in number, particularly at the Town Common. Some are planned and managed by the Department and some are in conjunction with an outside organization with the City providing some level of support. This year's PirateFest is scheduled for April 12 and 14 and for the first time, PirateFest will host evening concerts at the Town Common stage both Friday and Saturday nights.

Chairperson Caswell reported that Sunday in the Park will begin June 2 at 7:00 p.m. and will run every Sunday thru August 25 with 13 concerts this year, which is the most ever. There will also be five Wednesday evening concerts as part of the Concert on the Common series, starting with the Embers on April 24. In addition, three movies in the park are scheduled at the Town Common. The first one, Mary Poppins Returns, is scheduled for March 29 at 7:30 p.m.



Chairperson Caswell reported that Parks Planner LaMarco Morrison will be leaving the Department after 10 years of service to accept the position of Parks and Recreational Director in Hope Mills, North Carolina. He was the City's first Parks Planner and has worked on a lot of impactful projects, including the newest park, Westpointe, the renovations at South Greenville and Eppes Recreation Centers, the Drew Steele Center, Town Common Playground, Providian Pier restroom, Kayak Launch, and the Sycamore Hill Gateway Project, which is currently approaching its construction phase.

Chairperson Caswell reported that 24 other capital improvement projects have been completed this fiscal year through the City's Facilities and Improvement Program. They have included roof improvement replacements on picnic shelters, playground repairs, ADA projects, gym flooring replacement at H. Boyd Lee Park, electrical upgrades, and interior and exterior painting at various facilities. A new addition to the parks and facilities this year is a signage of "Keep Calm and Call Parks". Having a telephone number on the sign is a way of encouraging park visitors to report any maintenance issues directly to staff, who can and will do something about them. A Recreation and Parks Department staff member suggested this signage.

Chairperson Caswell stated that the City's services and facilities can never be successful if the public was never aware of them. The Commission is grateful to Communications Manager Brock Letchworth and Communications Specialist Aaron Hines of the Public Information Office for working so hard to make sure they are. The Department's staff and members of the Commission are also grateful for their countless volunteers and the many groups who have shared their money, time, supplies, and skills in order to provide some sort of service to the community. Examples are the Greenville Little, Jackie Robinson, and the Exceptional Community Baseball Leagues, Greenville Noon Rotary, Friends of the Greenville Greenways, RELEAF, Uptown, Pitt County Arts Council, East Carolina University, Pitt County Schools, Love A Sea Turtle, countless special events sponsors, and City departments.

Chairperson Caswell stated that the Commission is grateful to the members of the City Council for supporting further improvements at the Town Common and the development of an adventure park. Also, the Commission is grateful for the City Council recognizing that the work at the Recreation and Parks Department is more than icing on the cake and for making the Department a part of the City Council's vision for the future of the City.

Chairperson Caswell reported that the Commission is working towards supporting a healthy, safe, exciting, attractive, and green community with a high quality of life that includes beautiful parks, a system of greenways, convenient and economic pull, recreational opportunities, special events, outdoor concerts, and a citizenry that takes pride in their community. The Commission and Department staff appreciate the opportunity to impact the quality of life and to serve the people and visitors to the City of Greenville and for the City Council's assistance in helping them to do that.

Redevelopment Commission – *Continued*



NEW BUSINESS

RESOLUTION OF COMMITMENT TO PARTICIPATE IN THE PUBLIC-PRIVATE ECONOMIC DEVELOPMENT PARTNERSHIP- (Resolution No. 016—19)

City Manager Ann Wall reported that in February 2018, the City of Greenville along with Pitt County, Greenville Utilities Commission, and the Pitt County Committee of 100 engaged Convergent Solutions to conduct a feasibility study around economic development. As part of that work, Convergent Solutions conducted roundtable discussions with over 100 people and had individual interviews with about 69 people. Through those discussions, a number of themes emerged. Those themes included that economic growth could be stronger in Pitt County, economic development efforts were fractionized, and collaboration would create more success.

City Manager Wall reported that following that work, the City along with the County, Committee of 100, representatives from the Pitt County Development Commission, East Carolina University, Vidant Medical Center, and area business and industry representatives began meeting to discuss the creation of a public-private partnership to address economic development. Their discussions centered on what that organization would look like and how it would be governed, what the budget would look like, and what would be the scope of work.

City Manager Wall reported that while the County has elected to limit their participation in that organization, the working group is still moving forward, meeting over five times. The working group is now developing a board structure and staffing model, looking at budgets, and making plans to begin a fundraising effort to create that public-private partnership.

City Manager Wall reported that the community has spoken and is excited about the idea of the creation of this public-private partnership. They believe that this partnership will lead all communities in Pitt County and those economic development efforts. The economic development working group will have an all-encompassing scope of work to include the following:

- Existing business retention and expansion
- External marketing and business recruitment
- Product development (sites, business parks, and buildings)
- Talent retention, development, and attraction
- Small business and entrepreneurship development
- Retail/commercial development
- Support for municipal strategies
- Business advocacy and legislative relations
- Internal marketing and investor relations



City Manager Wall stated that the City is asking all of the interested partners to commit to participating in this economic development partnership. The working group is requesting the City Council to consider adopting the resolution of commitment to participate in this partnership. This is the right time and the necessary approach to really create economic development in Pitt County.

Council Member Smiley thanked Mayor Connelly and Council Member Litchfield for the amount of time they have spent on this partnership and keeping the other Council Members in the loop on the way the discussions are going. This is a great idea and he appreciates the efforts that they have made.

Motion was made by Council Member Smiley and seconded by Council Member Meyerhoeffer to adopt the resolution. Motion carried unanimously.

ADOPTION OF 2019 STATE LEGISLATIVE AGENDA

City Attorney McGirt reported that the firm of Ward & Smith has been retained to represent the City of Greenville's interest with the General Assembly and agencies in the State of North Carolina. Each year, it is customary for the City Council and staff to identify key legislation and priority items and those items will be pursued by Ward & Smith. The following are the items proposed for the 2019 State Legislative Agenda:

"PROPOSED COPY"

City of Greenville 2019 State Legislative Agenda

Priority Legislation

- Seek legislation to make recurring state appropriations to State Search and Rescue Program funds.
- Seek legislation to make the use of a wireless communication device while operating a motor vehicle on a public street, highway, or public vehicular area in North Carolina unlawful.
- Seek legislation to provide a regulatory framework for scooter and bike sharing platforms.
- Seek legislation to create additional revenue sources for the City to be used on special projects.
- Seek legislation to appropriate funds to expand and improve the Brody School of Medicine.
- Oppose any legislation to reallocate sales tax revenue that would decrease the City's current sales tax distribution.
- Oppose any unfunded mandates.



Advocacy Positions

- Advocate for sustained or increased state appropriations to the Parks and Recreation Trust Fund.
- Support changes to the law governing the disclosure and release of law enforcement recordings to clarify that disclosure to a municipal manager is allowed and to allow disclosure to a city or town council.
- Support Vidant Health and its role as a rural health care provider.
- Support a system of spirituous liquor sales that enhances local control over the location and density of retail outlets.
- Support legislation to ensure that the amount of Powell Bill funds appropriated by the state is sustained and that distributions to municipalities are maintained or increased despite the trend of decreasing gas tax revenue.
- Support addition of a new funding stream for the DOT Complete Streets Program to complete the county based portion of sidewalks that have been funded by municipalities under the program.
- Support an increase in state appropriated funds for local transit projects.
- Support legislation to expand city eligibility for Clean Water State Revolving fund dollars.
- Support legislation that promotes economic development in Eastern North Carolina.
- Support additional statewide investment in local stormwater projects.

“END PROPOSED COPY”

City Attorney McGirt explained that on February 28, 2019, Ms. Whitney Christensen of Ward & Smith visited Greenville and met with available Council Members and staff. The recommendation is that the City Council adopt the proposed 2019 State Legislative Agenda.

City Attorney McGirt stated that this agenda has priority legislation. For instance, one of the items is to *seek legislation to appropriate funds to expand and improve the Brody School of Medicine*. It also has advocacy positions such as *support legislation to ensure that the amount of Power Bill funds appropriated by the State is sustained and that distributions to municipalities are maintained or increased despite the trend of decreasing gas tax revenue*.

Mayor Connelly stated that one of the items on the priority legislation is to *seek legislation to provide a regulatory framework for scooter and bike sharing platforms*. His concern is if the City is granted limited powers from the State of North Carolina, he does not know why the elected officials would ask the State of North Carolina to seek some legislation to provide the City with framework of how to handle scooters and bike sharing.

Mayor Connelly stated that each city is unique in its own way. It is important that the elected officials have that framework. But the City of Greenville could probably speak for its issues as opposed to the City of Wilson, which may not have a large university that may have a tremendous amount of scooters.



Council Member Smiley asked whether there was once any sense that the City lacked some prerogative or the ability to do something that it wanted to do.

City Attorney McGirt responded that the City has the authority to regulate its right-of-ways. The City Council could strike this proposal to seek legislation to provide a regulatory framework for scooter and bike sharing platforms. He feels that if this legislation passes, something like this would preempt local authorities and the State would just regulate the scooter and bike sharing companies. It is similar to what happened with Uber. Cities cannot adopt an ordinance regulating Uber. The State's statutes preempt cities from regulating Uber.

Motion was made by Council Member Smiley and seconded by Council Member Litchfield to strike that priority.

Mayor Connelly stated that he feels that one of the advocacy positions is to support Vidant Health and its role as a rural health provider. Additionally, it would be smart to add East Carolina University and its role as a higher education institution. Those two are the major employers in Greenville and should be included as well.

Council Members Smiley and Litchfield accepted the amendment to include supporting East Carolina University and its leadership role in higher education in the State.

There being no further discussion, the motion as amended passed unanimously.

NOTE: During discussion of the 2019 Draft Federal Agenda, the City Council voted unanimously to add a provision to "seek and support funding to improve interstate access in Eastern North Carolina to and from Greenville" to both the State and Federal legislative agendas. It has been added to the State agenda under Priority Legislation.

ADOPTION OF 2019 CITY OF GREENVILLE FEDERAL AGENDA

City Attorney McGirt reported that the Ferguson Group has been retained to represent the City by assisting with the identification of federal funding opportunities, which will further the strategic efforts of the City. The recommendation is to approve the City of Greenville 2019 Draft Federal Agenda. It deals with federal funding and legislation on issues such as community and economic development, transportation and infrastructure, energy and environment, public safety, labor and workforce development, and recreation and parks.

"DRAFT COPY"



Find yourself in good company



2019 Draft Federal Agenda

Mayor

P.J. Connelly

Mayor Pro Tem

Rose H. Glover

Council Member At-Large

Brian Meyerhoeffer

Council Member, District 1

Monica Daniels

Council Member, District 3

Will Bell

Council Member, District 4

Rick Smiley

Council Member, District 5

Will Litchfield

Adopted by Mayor and City Council on **DATE**

Prepared in coordination with The Ferguson Group, LLC

GREENVILLE CITY HALL
200 WEST FIFTH STREET
GREENVILLE, NC 27858
(252) 329-2489



2019 Federal Priorities

Community and Economic Development	Action Item:
West Greenville Neighborhood Revitalization Strategy Area	<p>Support efforts to advance the West Greenville Neighborhood Revitalization Strategy Area, including administration of the City’s grant award from HUD’s Office of Healthy Homes and Lead Hazard Control for lead-based paint abatement and education.</p> <p>Pursue funding for sidewalks through DOT’s Safe Routes to School Program (through NCDOT) and Congestion Mitigation and Air Quality Program (through MPO).</p> <p>Support federal funding for HUD’s Community Development Block Grant and HOME programs.</p>
Imperial Tobacco Site	Pursue federal funds to address infrastructure needs to develop the 6 acres of property off Dickinson Avenue.
Industrial/Office Park Development	Explore funding opportunities to fund infrastructure and/or property purchase to develop an Industrial/Office Park.
A Time for Science	<p>Explore funding opportunities for programs and exhibits at the Science Center.</p> <p>Consult with Institute of Museum and Library Sciences on relevant opportunities.</p>
HOME Funds in Grifton, NC	Work with HUD on recovery of HOME funds from projects in Grifton for which documentation no longer exists.
Transportation and Infrastructure	Action Item:
West Greenville Multimodal Safety and Accessibility Improvements Project	Pursue BUILD grant funds.



Pitt-Greenville Airport	Support efforts to expand flight options and infrastructure improvements at Pitt-Greenville Airport.
Energy and Environment	Action Item:
Tar River Legacy Plan	Work with the U.S. Army Corps of Engineers to identify funding opportunities to address various aspects of the Plan, including bulk head removal and replacement and creating a living shoreline at the Town Common.
Watershed Master Plan	Identify funding opportunities for implementation of the Greenville Watershed Master Plan.
Flood-Prone Properties	Explore federal funding opportunities to acquire properties subject to recurring flooding (repetitive loss properties).
Brownfields	Work with the City and East Carolina University to secure brownfields clean-up grant funds from the EPA.

Public Safety	Action Item:
Police Department	<p>Pursue assistance for technology and equipment needs, such as mobile radios, gunshot detection and predictive policing, latent fingerprint examiner and digital scanner for use at crime scenes.</p> <p>Monitor funding opportunities for diversion programs and pre-trial services.</p>
Fire-Rescue Department	<p>Pursue assistance for department needs, such as hiring support (SAFER grant), and burn room equipment for training (AFG, FP&S grants).</p> <p>Support firefighter cancer registry and other health and wellness legislation.</p> <p>Support technical correction to Fire Sprinkler Incentive Act.</p>
Police and Fire	Monitor and report on legislative and regulatory initiatives of interest to Greenville, such as the roll out of FirstNet and potential funding opportunities.



Labor and Workforce Development	
Workforce Development Initiative	<p>Action Item:</p> <p>Greenville is working to support workforce development initiatives particularly with Pitt Community College.</p> <p>The City also wants to expand to medical patenting.</p>
Small Business Development	<p>The City will continue to support upstarts with funding and small business resources.</p> <p>Explore funding options with the Small Business Administration.</p>
Recreation and Parks	
Historic Preservation	<p>Action Item:</p> <p>Explore funding opportunities for Historic Drill Tower Preservation Project (in Dream Park) and Sycamore Hill Missionary Baptist Church Memorial.</p>
Greenfield Terrace Park	<p>Support the City's efforts to secure a grant through the NC Division of Parks and Recreation's National Park Service's Outdoor Recreation Legacy Program.</p>
Public Arts Projects	<p>Working with the local arts council, support efforts to secure assistance for public arts projects.</p>
STE(A)M Initiatives at Youth Facilities	<p>Monitor funding opportunities within the U.S. Department of Education, National Endowment for the Arts, and private foundations for STE(A)M initiatives.</p>
Health and Wellness	<p>Support the legislation that would expand the IRS definition of medical expenditures to include physical activity as preventative medicine, and allow individuals to use the pre-tax dollars in Flexible Spending Accounts and Health Savings Accounts on expenditures such as gym memberships, sport league fees, exercise classes, and other physical activities.</p>



Park and Recreation Infrastructure	<p>Support the legislation that would provide federal grants for park and recreation infrastructure in metropolitan areas. Previous legislation would authorize HUD to provide funding to local park and recreation agencies, through three grant programs: <i>Rehabilitation and Construction</i>, the <i>Innovation and Recreation Program</i> and the <i>Recovery Action Program</i>.</p> <p>Support legislation that includes innovative financing for park infrastructure (“PIFIA”).</p> <p>Support permanent authorization of the Land and Water Conservation Fund.</p>
Other Priorities	Action Item:
Broadband	<p>Monitor and report on legislative and Administrative (FCC) efforts to accelerate broadband deployment and preempt local authority on ROW and land use decisions, as well as fees for pole attachments.</p> <p>Support H.R. 530, which would nullify the FCC Order on small cell deployment.</p>
Financing	Support tax-exempt municipal bonds and advance refunding bonds.
Infrastructure Package	Monitor and report on Administration's infrastructure package and resulting legislation.
FY 2020 Budget and Appropriations	Support full funding for priority federal programs.

“END DRAFT COPY”

Council Member Meyerhoeffer stated that after his reading through the State and Federal agendas, there is no mention of advocacy efforts in terms of expediting interstate access or designation into Greenville.

City Manager Wall stated that the North Carolina Department of Transportation (NCDOT) has assured the City that for over the next two years they have identified funding for the portion of Future Interstate (I)-587 from I-95 to Greenville. It is about a two-year project including resurfacing of Future I-87 and Old US 264, some shoulder widening, as well as some culvert replacement.

Council Member Meyerhoeffer asked whether no further advocacy is required.

City Manager Wall responded that the portion left to be done is Future I-587 from US 64 to I-95. The funding for that portion has not been secured. As the City Council has



discussions about transportation improvements, this remaining portion to be done might be something to add to both legislative agendas. The conversion of US 64 to I-87 is needed to be done, which is a much longer route. It would take interstate all the way from Raleigh to the Coast and possibly to the Virginia line. The City Council could amend its motion to add this to both legislative agendas.

Mayor Connelly asked about how Highway 11 could connect to both of those interstates.

City Manager Wall stated that the City Council could identify a specific route and staff could craft some language to seek and support funding to improve interstate access in Eastern North Carolina to and from Greenville. That could be added to both legislative agendas.

Council Member Meyerhoeffer agreed that both of the City's legislative agendas must include something dealing with interstate access as it pertains to Greenville.

Motion was made by Council Member Meyerhoeffer and seconded by Council Member Smiley to add "Seek and support funding to improve interstate access in Eastern North Carolina to and from Greenville" to both the State and Federal legislative agendas and to adopt same as amended. Motion carried unanimously.

APPLICATION FOR A NORTH CAROLINA PARKS AND RECREATION TRUST FUND (PARTF) GRANT IN SUPPORT OF THE DEVELOPMENT OF AN "ADVENTURE PARK"

Mayor Pro-Tem Glover asked whether staff is requesting funding for one specific project or several projects.

Director of Recreation and Parks Gary Fenton responded that a specific recreation and parks project must always be designated in the application. The Recreation and Parks Department is looking at support for an adventure park, which is recommended in the Tar River Legacy Plan.

Mayor Connelly stated that the maximum grant amount is \$500,000.

Director Fenton stated that approximately \$7.2 million was recommended for the North Carolina Parks and Recreation Trust Fund (PARTF) Grant budget, which is not a lot. It has been higher in past years. The more money an applicant asks for, the less likely a project would be approved for funding.

Mayor Connelly asked about when the City received its last PARTF grant.

Director Fenton stated that the City had about six PARTF grants, each at \$250,000 or \$500,000, and the last one was for the Drew Steele Center. The City applied three times to get the funding, but the perseverance paid off.



There being no further discussion, motion was made by Council Member Smiley and seconded by Council Member Bell to approve applying for the grant in support of an adventure park. Motion carried unanimously.

ORDINANCE APPROVING 2018-2019 CAPITAL RESERVE FUND DESIGNATIONS – (Ordinance No. 19-017)

Director of Financial Services Byron Hayes gave an update on the Capital Reserve Fund. The City funds its ability to have a Capital Reserve Fund as designated by the North Carolina General Statutes § 159-18. Staff is requesting a transfer of \$800,751 from the Capital Reserve Fund to the Public Works Capital Projects Fund for three additional parking lot construction projects in the Dickinson Avenue area.

Director Hayes stated that this will decrease the Capital Reserve Fund designations from \$5,037,967 to \$4,237,216:

Capital Reserve Fund - Detail of Designations - March, 2019						
Purpose	Approved Designations					Proposed Designations March 25, 2019
	December 10, 2018		Inc/(Dec)	Interest		
Convention Center Project(s)	\$ 140,487		\$ -	\$ -		\$ 140,487
Dickinson Avenue Project(s)						
Dickinson Parking	\$ 800,751	A	\$ (800,751)	\$ -		\$ -
Dickinson Avenue Streetscape	1,702,860		-	-		1,702,860
Subtotal Dickinson Avenue Project(s)	\$ 2,503,611		\$ (800,751)	\$ -		\$ 1,702,860
Transportation						
Sidewalk Construction - DOT projects	\$ -		\$ -	\$ -		\$ -
DOT Project - Firetower NC43 to 14th Street	187,480		-	-		187,480
DOT Project - Firetower 14th Street to NC33	594,389		-	-		594,389
DOT Project - Evans Street Widening	-		-	-		-
DOT Project - 14th Street Widening	-		-	-		-
Street Signal Conversion	912,000		-	-		912,000
Subtotal Transportation	\$ 1,693,869		\$ -	\$ -		\$ 1,693,869
Community Development						
Parking Station Reserves	\$ -		\$ -	\$ -		\$ -
Industrial Site	700,000		-	-		700,000
Subtotal Community Development	\$ 700,000		\$ -	\$ -		\$ 700,000
Total	\$ 5,037,967		\$ (800,751)	\$ -		\$ 4,237,216

A Transfer to pay for parking lot construction in the Dickinson Avenue Corridor

Director Hayes stated that this brings the City to about 80% of the current designations for the Dickinson Avenue and transportation projects and to about 20% of the additional funding for cultural and economic development. Staff recommends that the City Council adopt the ordinance approving this update to the Capital Reserve Fund Designations.

Mayor Connelly stated that there is no indication of what the City is planning to do with the \$912,000.00 for the signalization project. Often, he receives questions about when is the



City going to fix some of the street signals throughout the community. It is always said that the City has the money designated to be able to put up its share for the signalization program. Mayor Connelly asked whether staff has any idea as to when the North Carolina Department of Transportation (NCDOT) is going to move forward with that project. Public Works Director Kevin Mulligan responded that the City staff has been meeting monthly with the NCDOT and the design consultant. The design would be completed probably at the end of the year and then a two-year construction cycle would follow. He will send the exact schedule to the City Manager for distribution to the Mayor and City Council Members.

Mayor Connelly asked whether it would be safe to say that the street signal conversion project should be fully implemented in 2022.

Director Mulligan responded that is probably correct. A connected vehicle technology is involved with the 10th Street Corridor Project. Staff is looking to having the same technology involved with several other corridors. The street lights or traffic signals would feed information back to the vehicles and eventually back to pedestrians' cellphones such as a car is coming or moving too rapidly.

Mayor Connelly asked how many parking spaces will be designated for use by the general public on Dickinson Avenue.

Director Mulligan responded that there would be approximately 42 spaces on Dickinson Avenue and 40 on Clark Street, where the lot has been cleared and some grading was done.

Mayor Connelly asked whether a lot of the parking spaces on Clark Street is going to be designated for City staff.

Director Mulligan responded that the parking spaces on Clark Street will be designated for the public as well. The parking lot where Atlantic Street and Bonner Street meet will be designated for City staff.

Motion was made by Council Member Smiley and seconded by Council Member Bell to adopt the ordinance. Motion carried unanimously.

BUDGET ORDINANCE AMENDMENT #8 TO THE 2018-2019 CITY OF GREENVILLE BUDGET (ORDINANCE #18-038) AND CAPITAL PROJECTS FUND (ORDINANCE #17-024) – (Ordinance No. 19-018)

Director of Financial Services Byron Hayes stated that Budget Ordinance Amendment #8 includes adjustments to the Housing Fund, Capital Reserve Fund, and Public Works Capital Projects Fund. Staff is looking to 1) recognize additional funding received from the Department of Housing and Urban Development for the City's HOME and CDBG Programs and 2) reappropriate the \$800,000 for the Dickinson Avenue Parking Lot and to recognize



the Capital Reserve funding of \$800,751 for other parking lot construction projects in the Dickinson Avenue corridor.

Director Hayes stated that as a result of the amendment, this brings the City of Greenville operating fund budget to over \$138 million and the Capital Reserve Fund to under \$152 million. Staff recommends that the City Council approve Budget Ordinance Amendment #8 to the City of Greenville operating budget.

Motion was made by Council Member Bell and seconded by Council Member Daniels to approve Budget Ordinance Amendment #8. Motion carried unanimously.

CITY MANAGER’S REPORT

City Manager Wall recognized and congratulated Director of Financial Services Byron Hayes, Transportation Planner Ryan Purtle, and Mayor P. J. Connelly for being recipients of the East Carolina University “40 Under 40” Leadership Awards.

City Manager Wall requested the City Council’s consideration of rescheduling the April 22, 2019 Joint City Council/Greenville Utilities Commission meeting to April 24, 2019.

Motion was made by Council Member Bell and seconded by Council Member Daniels to reschedule the April 22, 2019 Joint City Council/Greenville Utilities Commission meeting to April 24, 2019 at 6:00 p.m. in the Council Chambers. Motion carried unanimously.

COMMENTS FROM MAYOR AND CITY COUNCIL

The Mayor and City Council made comments about past and future events.

ADJOURNMENT

There being no further business before the City Council, motion was made by Council Member Bell and seconded by Council Member Daniels to adjourn the meeting. Motion carried unanimously, and Mayor Connelly declared the meeting adjourned at 7:11 p.m.



Respectfully Submitted

A handwritten signature in cursive script that reads "Polly Jones".

Polly Jones
Deputy City Clerk



City of Greenville,
North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Resolution and Deed of Release to abandon a 5" electrical easement located on Tax Parcel No. 83972

Explanation: **Abstract:** Greenville Utilities Commission seeks to abandon an electrical easement located on Tax Parcel #83972.

Explanation: To facilitate the redevelopment of this property, the property owner, Taft-Ward Investments LLC, is requesting that the City of Greenville abandon a 5' Utility Easement recorded in Map Book 29 at Page 185, Pitt County Public Registry.

At its regular meeting on April 18, 2019, the GUC Board of Commissioners authorized the execution of a resolution requesting the City Council to abandon such easement and request the execution of a Deed of Release for same in favor of the current owner.

Fiscal Note: No cost to the City.

Recommendation: Authorize the execution of the attached resolution and Deed of Release

ATTACHMENTS:

- ❑ **Resolution Abandonment of Electrical Easement**
- ❑ **Deed of Release - Electrical Easement**
- ❑ **Exhibit A Map**
- ❑ **Exhibit B Map**

RESOLUTION _____

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF GREENVILLE, NORTH CAROLINA,
ABANDONING A FIVE FOOT (5') WIDE, MORE OR LESS, ELECTRICAL EASEMENT
ACROSS TAX PARCEL NUMBER 83972 ACCORDING TO THE RECORDS
IN THE OFFICE OF THE TAX ADMINISTRATION OF PITT COUNTY, NORTH CAROLINA,
AND AUTHORIZING EXECUTION OF DEEDS OF RELEASE

WHEREAS, The City of Greenville North Carolina ("City") for the use and benefit of Greenville Utilities Commission ("Commission"), heretofore obtained an Electrical Easement five feet (5') in width, more or less, across property commonly known as Tax Parcel No. 83972 according to the records in the Office of the Tax Administration of Pitt County, North Carolina, which said easement is more particularly described on that certain plat appearing of record in Map Book 29 at Page 185, Pitt County Public Registry (Exhibit "A"), to which reference is hereby made for a more particular and accurate description of such five foot (5') wide, more or less, Electrical Easement to be abandoned. For illustrative purposes, see also Exhibit "B" which is attached and made a part hereof; and

WHEREAS, as a result of the construction of a student housing project bordered by NCSR 1598, also commonly known as East Tenth Street (81' Public R/W; Future 90' R/W; 65' B/B) and by Charles Street (50' Public R/W; 30' B/B) and NCSR 1707, and also commonly known as Charles Boulevard (100' Public R/W; 69' B/B), on a tract or parcel of land 4.05 acres, or 176,618.4 square feet, more or less, now or formerly owned by Taft-Ward Investments, LLC, an Electrical Easement five feet (5'), in width, more or less, previously dedicated on Map Book 29 Page 185 needs to be abandoned in connection with the redevelopment of said property; and

WHEREAS, such five foot (5') wide, more or less, Electrical Easement is no longer needed by the Commission; and

WHEREAS, Commission anticipates no use or need now or in the future for such five foot (5') wide, more or less, Electrical Easement to be abandoned; and

WHEREAS, Commission therefore desires to abandon such five foot (5') wide, more or less, Electrical Easement previously granted; and

WHEREAS, the owner of such property has agreed to grant to the City of Greenville, for the use and benefit of Greenville Utilities Commission, additional Utility Easements that are necessary in connection with the provision of utilities to the subject properties and the student housing construction project thereon; and

WHEREAS, the owner of such property has requested the City of Greenville, North Carolina, and Greenville Utilities Commission to abandon such five foot (5') wide, more or less,

Electrical Easement and requests that the City Council of the City of Greenville, for the use and benefit of Greenville Utilities Commission, acknowledge such abandonment and release; and

WHEREAS, Commission deems such abandonment to be reasonable and in the best interest of the Commission and all parties and therefore requests that the City Council of the City of Greenville, North Carolina, acknowledge such abandonment and release of such Electrical Easement five feet (5') in width, more or less, which is to be abandoned.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville, North Carolina, in Regular Session held in the Council Chambers of City Hall of the City of Greenville, North Carolina, on the ____ day of _____, 20____, as follows:

1. That the City Council of the City of Greenville does hereby abandon such five foot (5') wide, more or less, Electrical Easement heretofore granted to the City of Greenville, for the use and benefit of Greenville Utilities Commission, as shown on that certain plat appearing of record in Map Book 29 at Page 185, Pitt County Public Registry (Exhibit "A"), which said five foot (5') wide Electrical Easement generally extends along the property line bordering lots one (1) through six (6) as shown on that certain plat entitled "Dresden Place, City of Greenville, Pitt Co. N.C, Dated June 18,1981, Revised July 29,1981." the metes and bounds description of which is more particularly described on such plat, appearing on record Map Book 29 Page 185.

2. That the appropriate City Officials be and are hereby empowered to make, execute and deliver to: Taft-Ward Investments, LLC, P.O. Box 566, Greenville, North Carolina 27835, or the current owner of the subject property encumbered by such five foot (5') wide, more or less, Electrical Easement to be abandoned, an instrument in a form suitable for recording to release whatever interests the City of Greenville, North Carolina, for the use and benefit of Greenville Utilities Commission, might have in and to such five foot (5') wide, more or less, Electrical Easement to be abandoned as hereinabove described.

Adopted this the ____ day of _____, 20____.

CITY OF GREENVILLE

By _____
P.J. CONNELLY, Mayor

(SEAL)

ATTEST:

CAROL L. BARWICK, Clerk

Prepared by: Phillip R. Dixon, Attorney
File: Greenville Utilities Commission
Post Office Box 1847
Greenville, NC 27835

NORTH CAROLINA

DEED OF RELEASE

PITT COUNTY

THIS DEED OF RELEASE, made and entered into this the ____ day of _____, 20____, by and between the City of Greenville, North Carolina, a municipal corporation in Pitt County, North Carolina, party of the first part (hereinafter called GRANTOR), and Taft-Ward Investments, LLC, P.O. Box 566, Greenville, North Carolina 27835, party of the second part (hereinafter called GRANTEE).

W I T N E S S E T H

THAT WHEREAS, the GRANTOR for the use and benefit of Greenville Utilities Commission previously received a Electrical Easement five feet (5') in width, more or less, across property commonly known as Tax Parcel No. 83972 according to the records in the Office of the Tax Administration of Pitt County, North Carolina, which said easement is more particularly described on that certain plat appearing of record in Map Book 29 at Page 185, Pitt County Public Registry (Exhibit "A"), to which reference is hereby made for a more particular and accurate metes and bounds description of such five foot (5') wide, more or less, Electrical Easement to be abandoned. For illustrative purposes, see also Exhibit "B" which is attached and made a part hereof; and

WHEREAS, the current owner of the underlying fee interest in such property subject to the said five foot (5') wide, more or less, Electrical Easement is now GRANTEE; and

WHEREAS, Greenville Utilities Commission has requested GRANTOR to indicate formally that it has no plans or interest in such property encumbered by such five foot (5') wide, more or less, Electrical Easement to be abandoned; and

WHEREAS, Greenville Utilities Commission has therefore requested GRANTOR to execute a Deed of Release to GRANTEE, or the current owner of such property, to indicate its abandonment and release of such previous five foot (5') wide, more or less, Electrical Easement

as described herein as to be abandoned and as shown on Exhibit "A" which are attached hereto and made a part hereof; and

WHEREAS, the City Council of the GRANTOR, acting on the recommendation of Greenville Utilities Commission, has duly adopted the Resolution abandoning to GRANTEE, such five foot (5') wide, more or less, Electrical Easement, a copy of which said Resolution is attached hereto as Exhibit "C" and made a part hereof.

NOW THEREFORE, pursuant to and in accordance with said Resolution, GRANTOR does hereby remise, release, discharge and forever quitclaim unto GRANTEE, Taft-Ward Investments, LLC, P.O. Box 566, Greenville, North Carolina 27835, as the current owner of the subject property, their successor and assigns, all the GRANTOR's rights, title and interest in and to such five foot (5') wide, more or less, Electrical Easement to be abandoned as shown on Map Book 29 at Page 185 Pitt County Public Registry (Exhibit "A") an more particularly described as follows:

Traveling from an existing iron pipe (E.I.P.) at the intersection of the Western Right of Way of Charles Street and the Northern Right of Way of Eleventh Street and traveling North 72°54'00" West 24.15 feet, more or less, to a point, thence North 72°54'00 West 46.8 feet, more or less, to a point, the southwest corner of such five foot (5) wide, more or less, Electrical Easement, the Point of Beginning; cornering, thence, North 16°32'47" East along the western edge of such five foot (5) wide, more or less, Electrical Easement and along the western boundary of lots one (1), two (2), three (3), four (4), five (5) and six (6) as shown on Map Book 29 at Page 185, Pitt County Registry, a total distance of 111.76 feet, more or less, to the Northern terminus and Northwest corner of such five foot (5) wide, more or less Electrical Easement, including extensions from said five foot (5') Electrical Easement to lots one (1) and two (2); three (3) and four (4); and five (5) and six (6), which said extensions of such easement are two point five feet (2.5) on either side of the property line separating lots one (1) and two (2), lots three (3) and (4), and lots five (5) and six (6), the metes and bounds of which are more particularly shown on map entitled "Dresden Place, City of Greenville Pitt Co. N.C dated June 18, 1981 Revised July 29, 1981" appearing in record Map Book 29 at Page 185 Pitt County Public Registry.

IN TESTIMONY WHEREOF, GRANTOR has caused this Deed of Release to be executed in its name by its Mayor, attested by the City Clerk, and its official seal hereto affixed, all by Resolution duly entered by the City Council of GRANTOR, on the day and year first above written

CITY OF GREENVILLE, NORTH CAROLINA

By: _____
P.J. CONNELLY, Mayor

[SEAL

Attest:

CAROL L. BARWICK, City Clerk
NORTH CAROLINA

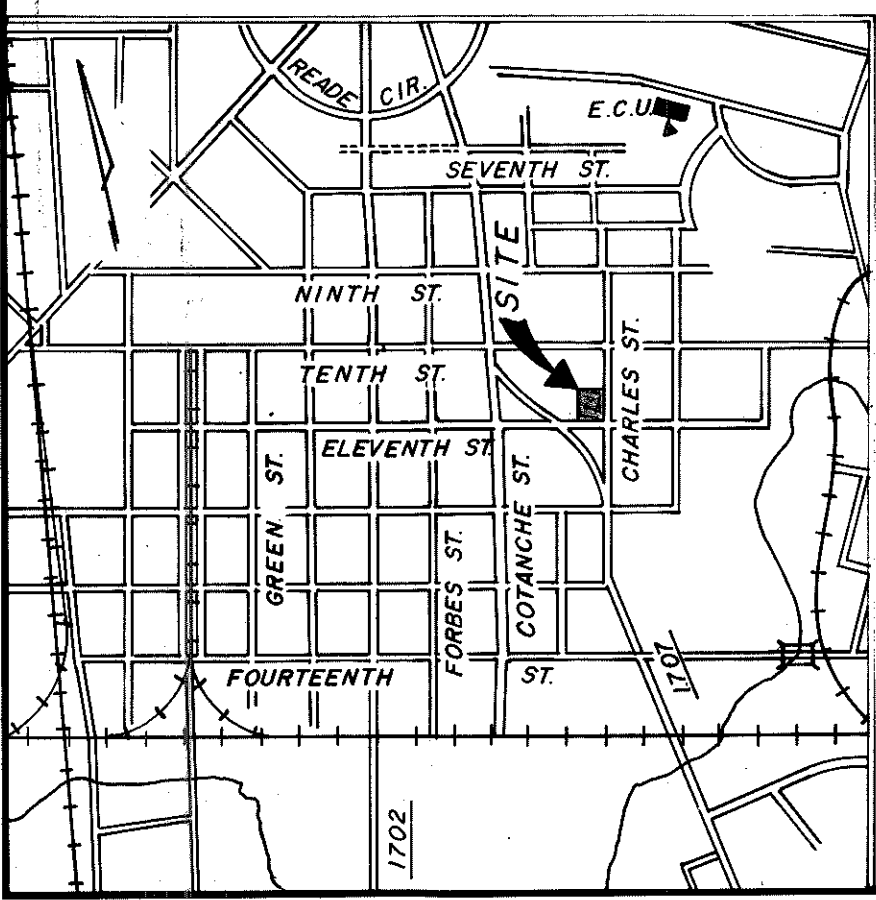
PITT COUNTY

I, _____, a Notary Public of the aforesaid County and State, certify that CAROL L. BARWICK personally came before me this day and acknowledged that she is City Clerk of the City of Greenville, North Carolina, and that by authority duly given and as the act of the City of Greenville, North Carolina, the foregoing instrument was signed in its name by its Mayor, sealed with its official seal and attested by her as its City Clerk.

WITNESS my hand and official stamp or seal, this the _____ day of _____, 20____.

NOTARY PUBLIC

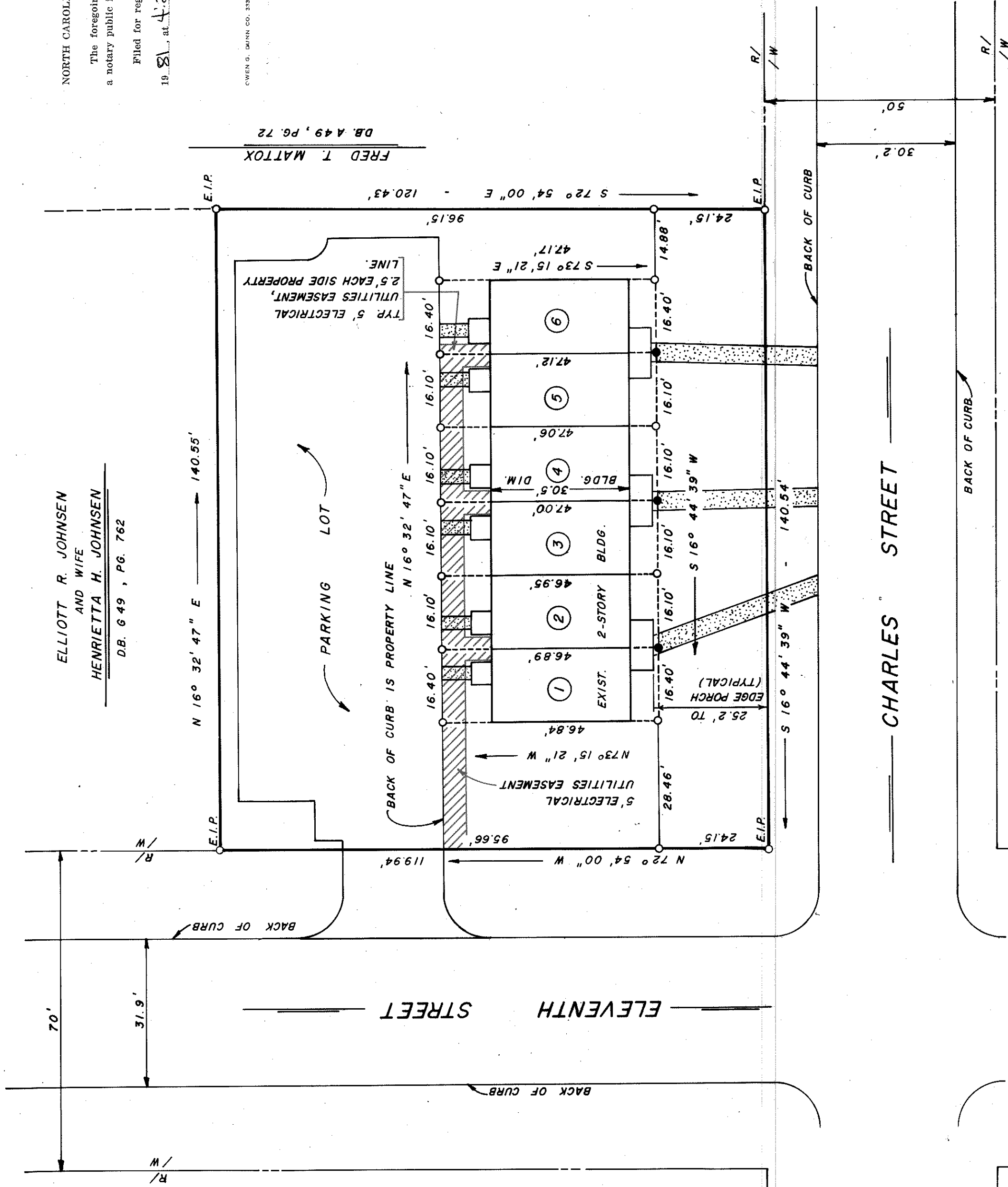
My Commission Expires: _____



VICINITY MAP
1" = 1000'

TRACT AREA = 16,891 S.F.

NOTE: THIS TRACT IS LOTS 11 & 12
BLOCK "F" FORBES AND GILBERT
SUBD. M. B. 27 P. 124 PITT CO. REGISTRY.

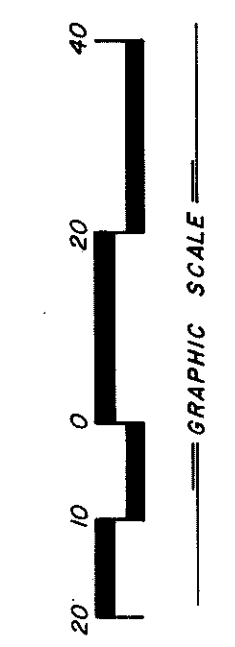


ELLIOTT R. JOHNSEN
AND WIFE
HENRIETTA H. JOHNSEN
D.B. 649, P.G. 762

NORTH CAROLINA - PITT COUNTY
The foregoing certificate of Betsy H. Bundy
a notary public is certified to be correct.
Filed for registration this the 15th day of August
19 81, at 4:21 o'clock P. M.
By James M. Walker
ELVIRA T. ALLRED, Register of Deeds
Deputy Register of Deeds
EWEN G. SMITH CO. 3342

NOTES

1. WATER LINE EASEMENT BEGINS AT STREET RIGHT-OF-WAY AND ENDS AT WATER METER. EASEMENTS OVER WATER SERVICE LINES TO BE 5' WIDE (NOT SHOWN).
2. INDIVIDUAL LOTS INCLUDE THE PROPERTY ON WHICH THE UNIT SETS, AS WELL AS AREA TO THE FRONT AND/OR BACK ENCLOSED BY DOTTED LINES.
3. COMMON AREA
THE OLD NORTH STATE MANAGEMENT CORPORATION IN RECORDING THIS PLAT OF DRESDEN PLACE HAS DESIGNATED ALL AREAS OF LAND, EXCEPTING LOTS 1 THRU 6, SHOWN ON SAID PLAT AS "COMMON AREA".
THE "COMMON AREAS" EXPRESSLY ARE NOT DEDICATED HEREBY FOR USE BY THE GENERAL PUBLIC, BUT ARE TO BE CONVEYED BY THE OLD NORTH STATE MANAGEMENT CORPORATION FOR THE USE AND ENJOYMENT OF THE HOMEOWNERS IN DRESDEN PLACE MORE FULLY PROVIDED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS APPLICABLE TO DRESDEN PLACE, DATED _____ SAID DECLARATION IS HEREBY INCORPORATED AND MADE A PART OF THIS PLAT.



DRESDEN PLACE
CITY OF GREENVILLE PITT CO. N. C.

THE OLD NORTH STATE MANAGEMENT CORPORATION,
MARVIN K. BLOUNT, JR., PRESIDENT
GREENVILLE, N. C. PHONE: 756-3219

OLSEN ASSOCIATES, INC.
ENGINEERS AND SURVEYORS
120 READE STREET
P. O. BOX 93 (919) 762-1137
GREENVILLE, N. C. 27834

SURVEYED: S.N.S. APPROVED: J.M.W.
DRAWN: K.B. DATE: JUNE 18, 1981
CHECKED: J.A.H. SCALE: 1" = 20'

REVISED: JULY 29, 1981
FRONT PORCHES ALTERED & EASEMENTS ADDED

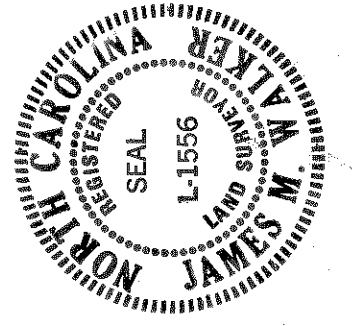
SOURCE OF TITLE
THIS IS TO CERTIFY THAT THE LAST INSTRUMENT(S) IN THE CHAIN OF TITLE(S) OF THIS PROPERTY AS RECORDED IN THE PITT COUNTY REGISTRY AT GREENVILLE, NORTH CAROLINA IS:
DEED BOOK M 49 PAGE 51
DEED BOOK M 49 PAGE 51
DEED BOOK M 49 PAGE 51

James M. Walker
NOTARY PUBLIC
MY COMMISSION EXPIRES 12/31/1994
N.C. REG. NO. L-1556

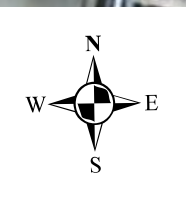
OWNERS STATEMENT
THIS IS EVIDENCE THAT THIS SUBDIVISION IS MADE AT THE REQUEST OF
Marvin K. Blount, Jr.
SWORN AND SUBSCRIBED BEFORE ME THIS 15th DAY OF AUGUST, 1981
Betsy H. Bundy
NOTARY PUBLIC
MY COMMISSION EXPIRES 12/31/1994

APPROVAL
THIS FINAL PLAT # 291 AND THE STREET NAME(S) HEREON WERE APPROVED BY THE GREENVILLE PLANNING AND ZONING COMMISSION AT A MEETING HELD THE 15th DAY OF AUGUST, 1981
SIGNED Paul J. Searles
CITY ENGINEER

DEDICATION
THE UNDERSIGNED HEREBY ACKNOWLEDGE(S) THIS PLAT AND ALLOTMENT TO BE FREE AND DEED, AND HEREBY DEDICATE(S) TO PUBLIC USE AS STREETS, PARKS, PLAY-GROUNDS, OPEN SPACES, AND EASEMENTS FOREVER ALL AREAS AS SHOWN OR SO INDICATED ON SAID PLAT.
SIGNED Betsy H. Bundy
ATTEST Betsy H. Bundy
Deputy Register of Deeds



STATE OF NORTH CAROLINA - PITT CO
CERTIFICATION
I, JAMES M. WALKER, CERTIFY THAT UNDER MY DIRECTION AND SUPERVISION THIS MAP WAS DRAWN FROM AN ACTUAL FIELD SURVEY MADE BY S.M. SPRULL, THAT THE CLOSURE AS CALCULATED BY LATITUDES AND DEPARTURES IS 1-2,200. THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM DEED INFORMATION THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY HAND AND SEAL THIS 18 DAY OF JUNE, 1981, A. D.
SIGNED James M. Walker
REGISTERED LAND SURVEYOR No. L-1556
SWORN TO AND SUBSCRIBED BEFORE ME THIS 18 DAY OF JUNE, 1981, A. D.
Betsy H. Bundy
Deputy Register of Deeds



CHARLES ST

E ELEVENTH ST

**5' Electrical Utilities Easement
To Be Abandoned**

**Taft-Ward Investments, LLC
Proximity at 10th
Easement to be Abandoned
Pitt County, NC**



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Resolution and Deed of Release to abandon a 70' utility easement on Tax Parcel Nos. 83972 and 15578

Explanation: **Abstract:** Greenville Utilities Commission seeks to abandon a 70' utility easement located across Tax Parcel Nos. 83972 and 15578.

Explanation: To facilitate the redevelopment of this property, the property owner, Taft-Ward Investments LLC, is requesting that the City of Greenville abandon a 70' utility easement recorded in Map Book 80 at Page 26, Pitt County Public Registry. At its regular meeting on April 18, 2019, the GUC Board of Commissioners authorized the execution of a resolution requesting City Council to abandon such easement and request the execution of Deeds of Release for same in favor of the current owners.

Fiscal Note: No cost to the City.

Recommendation: Authorize the execution of the attached resolution and Deeds of Release

ATTACHMENTS:

- ❑ Resolution Abandonment of 70 foot utility easement
- ❑ Deed of Release 70 foot utility easement parcel 83972
- ❑ Deed of Release 70 foot utility easement parcel 15578
- ❑ Map Exhibit A
- ❑ Map Exhibit B

RESOLUTION _____

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF GREENVILLE, NORTH CAROLINA,
ABANDONING A SEVENTY FOOT (70') WIDE, MORE OR LESS, UTILITY EASEMENT
ACROSS TAX PARCELS NUMBER 83972 AND 15578 ACCORDING TO THE RECORDS
IN THE OFFICE OF THE TAX ADMINISTRATION OF PITT COUNTY, NORTH CAROLINA,
AND AUTHORIZING EXECUTION OF DEEDS OF RELEASE

WHEREAS, The City of Greenville North Carolina ("City") for the use and benefit of Greenville Utilities Commission ("Commission"), heretofore obtained a Utility Easement seventy feet (70') in width, more or less, across properties commonly known as Tax Parcel Nos. 83972 and 15578 according to the records in the Office of the Tax Administration of Pitt County, North Carolina, which said easement is more particularly described on that certain plat appearing of record in Map Book 80 at Page 26, Pitt County Public Registry (Exhibit "A"), and more specifically described on that certain diagram entitled Taft-Ward Investments LLC, Proximity at 10th easement to be abandoned Pitt County, NC which is attached hereto and made a part hereof (Exhibit "B"), to which reference is hereby made for a more particular and accurate description of such seventy foot (70') wide, more or less, Utility Easement to be abandoned; and

WHEREAS, in connection with the construction of a student housing project bordered by NCSR 1598, also commonly known as East Tenth Street (81' Public R/W; Future 90' R/W; 65' B/B) and by Charles Street (50' Public R/W; 30' B/B) and NCSR 1707, and also commonly known as Charles Boulevard (100' Public R/W; 69' B/B), on a tract or parcel of land 4.05 acres, or 176,618.4 square feet, more or less, now or formerly owned by Taft-Ward Investments, LLC, a portion of Eleventh Street (70' Public R/W; 32' B/B) containing .76 acres, more or less, was recently abandoned and withdrawn from dedication; and

WHEREAS, such seventy foot (70') wide, more or less, Utility Easement within the abandoned portion of Eleventh Street is no longer needed by the Commission; and

WHEREAS, Commission anticipates no use or need now or in the future for such seventy foot (70') wide, more or less, Utility Easement to be abandoned; and

WHEREAS, Commission therefore desires to abandon such seventy foot (70') wide, more or less, Utility Easement previously granted; and

WHEREAS, the owners of such properties have agreed to grant to the City of Greenville, for the use and benefit of Greenville Utilities Commission, additional Utility Easements that are necessary in connection with the provision of utilities to the subject properties and the student housing construction project thereon; and

WHEREAS, the owners of such properties have requested the City of Greenville, North Carolina, and Greenville Utilities Commission to abandon such seventy foot (70') wide, more or less, Utility Easement and requests that the City Council of the City of Greenville, for the use and benefit of Greenville Utilities Commission, acknowledge such abandonment and release; and

WHEREAS, Commission deems such abandonment to be reasonable and in the best interest of the Commission and all parties and therefore requests that the City Council of the City of Greenville, North Carolina, acknowledge such abandonment and release of such Utility Easement seventy feet (70') in width, more or less, which is to be abandoned.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville, North Carolina, in Regular Session held in the Council Chambers of City Hall of the City of Greenville, North Carolina, on the ____ day of _____, 20____, as follows:

1. That the City Council of the City of Greenville does hereby abandon such seventy foot (70') wide, more or less, Utility Easement heretofore granted to the City of Greenville, for the use and benefit of Greenville Utilities Commission, as shown on that certain plat appearing of record in Map Book 80 at Page 26, Pitt County Public Registry (Exhibit "A"), and that certain diagram entitled Taft-Ward Investments LLC, Proximity at 10th Easement to be Abandoned Pitt County, NC which is attached hereto and made a part hereof (Exhibit "B"), and more particularly described as follows:

Beginning at an Existing Iron Pipe (EIP) at the northeast corner of Tax Parcel No. 21808 (Reference is hereby made to Deed Book 3308 at Page 133, Pitt County Public Registry), and in the western right-of-way of Charles Street (50' Public R/W; 30' B/B) and traveling North 79°01'26" West 455.78', more or less (59.99' + 59.86' + 238.88' + 59.15' + 37.92') to a point; cornering, thence North 12°08'49" West 76.11', more or less, to a point; cornering, thence 79°01'26" West 485.26', more or less (185.16' + 180.15' + 119.95'), to an Existing Iron Pipe (EIP) in the northern right-of-way of the portion of Eleventh Street which has been closed and abandoned, which is also situated in the western right-of way of Charles Street (50' Public R/W; 30' B/B), cornering, thence South 10°38'06" West 70.00', more or less, to an Existing Iron Pipe (EIP) in the northwest corner of Tax Parcel No. 21808 as hereinabove described, the Point of Beginning, being all as shown on that certain plat entitled "Street Closing Map for A Portion of Eleventh Street City of Greenville, Greenville Township, Pitt Co., N.C." dated February 10, 2016 and denominated Drawing No. Z-2612, prepared by Patrick W. Hartman, Professional Land Surveyor No. L-4262, Rivers & Associates, Inc., Engineers Planners Surveyors Landscape Architects, 107 East Second Street, Greenville, North Carolina 27858, telephone number (252) 752-4135, which appears of record in Map Book 80 at Page 26, Pitt County Public Registry, which is incorporated by reference and to which reference is hereby made for a more particular and accurate description of the easement to be abandoned.

2. That the appropriate City Officials be and are hereby empowered to make, execute and deliver to: (1) Taft Ward Investments, LLC, P.O. Box 566, Greenville, North Carolina 27835, and (2) George N. Naoum and Mary Jarvis Naoum, 1011 Charles Blvd Ste A., Greenville, North Carolina 27858, or the current owners of the subject properties encumbered by such seventy foot

(70') wide, more or less, Utility Easement to be abandoned, an instrument in a form suitable for recording to release whatever interests the City of Greenville, North Carolina, for the use and benefit of Greenville Utilities Commission, might have in and to such seventy foot (70') wide, more or less, Utility Easement to be abandoned as hereinabove described.

Adopted this the ____ day of _____, 20__.

CITY OF GREENVILLE

By _____
P.J. CONNELLY, Mayor

(SEAL)

ATTEST:

CAROL L. BARWICK, Clerk

Prepared by: Phillip R. Dixon, Attorney
File: Greenville Utilities Commission
Post Office Box 1847
Greenville, NC 27835

NORTH CAROLINA

DEED OF RELEASE

PITT COUNTY

THIS DEED OF RELEASE, made and entered into this the ____ day of _____, 20____, by and between the City of Greenville, North Carolina, a municipal corporation in Pitt County, North Carolina, party of the first part (hereinafter called GRANTOR), and Taft-Ward Investments, LLC, P.O. Box 566, Greenville, North Carolina 27835, party of the second part (hereinafter called GRANTEE).

W I T N E S S E T H

THAT WHEREAS, the GRANTOR for the use and benefit of Greenville Utilities Commission previously received a Utility Easement seventy feet (70') in width, more or less, across property commonly known as Tax Parcel No. 83972 according to the records in the Office of the Tax Administration of Pitt County, North Carolina, which said easement is more particularly described on that certain plat appearing of record in Map Book 80 at Page 26, Pitt County Public Registry (Exhibit "A"), and more particularly described on that certain diagram entitled Taft-Ward Investments LLC, Proximity at 10th Easement to be Abandoned Pitt County, NC which is attached hereto (Exhibit "B"), to which reference is hereby made for a more particular and accurate description of such seventy foot (70') wide, more or less, Utility Easement to be abandoned; and

WHEREAS, the current owner of the underlying fee interest in such property subject to the said seventy foot (70') wide, more or less, Utility Easement is now GRANTEE; and

WHEREAS, Greenville Utilities Commission requested GRANTOR to indicate formally that it has no plans or interest in such property encumbered by such seventy foot (70') wide, more or less, Utility Easement to be abandoned; and

WHEREAS, Greenville Utilities Commission has therefore requested GRANTOR to execute a Deed of Release to GRANTEE, or the current owners of such property, to indicate its abandonment and release of such previous seventy foot (70') wide, more or less, Utility Easement

as described herein as to be abandoned and as shown on Exhibits "A" and "B" which are attached hereto and made a part hereof; and

WHEREAS, the City Council of the GRANTOR, acting on the recommendation of Greenville Utilities Commission, has duly adopted the Resolution abandoning to GRANTEE, such seventy foot (70') wide, more or less, Utility Easement, a copy of which said Resolution is attached hereto as Exhibit "C" and made a part hereof.

NOW THEREFORE, pursuant to and in accordance with said Resolution, GRANTOR does hereby remise, release, discharge and forever quitclaim unto GRANTEE, Taft-Ward Investments, LLC, P.O. Box 566, Greenville, North Carolina 27835, as the current owner of the subject property, their successor and assigns, all the GRANTOR's rights, title and interest in and to such seventy foot (70') wide, more or less, Utility Easement to be abandoned as shown on Exhibits "A" and "B" and more particularly described as follows:

Beginning at an Existing Iron Pipe (EIP) at the northeast corner of Tax Parcel No. 21808 (Reference is hereby made to Deed Book 3308 at Page 133, Pitt County Public Registry), and in the western right-of-way of Charles Street (50' Public R/W; 30' B/B) and traveling North 79°01'26" West 455.78', more or less (59.99' + 59.86' + 238.88' + 59.15' + 37.92') to a point; cornering, thence North 12°08'49" West 76.11', more or less, to a point; cornering, thence 79°01'26" West 485.26', more or less (185.16' + 180.15' + 119.95'), to an Existing Iron Pipe (EIP) in the northern right-of-way of the portion of Eleventh Street which has been closed and abandoned, which is also situated in the western right-of way of Charles Street (50' Public R/W; 30' B/B), cornering, thence South 10°38'06" West 70.00', more or less, to an Existing Iron Pipe (EIP) in the northwest corner of Tax Parcel No. 21808 as hereinabove described, the Point of Beginning, being all as shown on that certain plat entitled "Street Closing Map for A Portion of Eleventh Street City of Greenville, Greenville Township, Pitt Co., N.C." dated February 10, 2016 and denominated Drawing No. Z-2612, prepared by Patrick W. Hartman, Professional Land Surveyor No. L-4262, Rivers & Associates, Inc., Engineers Planners Surveyors Landscape Architects, 107 East Second Street, Greenville, North Carolina 27858, telephone number (252) 752-4135, which appears of record in Map Book 80 at Page 26, Pitt County Public Registry, which is incorporated by reference and to which reference is hereby made for a more particular and accurate description of the easement to be abandoned.

IN TESTIMONY WHEREOF, GRANTOR has caused this Deed of Release to be executed in its name by its Mayor, attested by the City Clerk, and its official seal hereto affixed, all by Resolution duly entered by the City Council of GRANTOR, on the day and year first above written.

CITY OF GREENVILLE, NORTH CAROLINA

By: _____
P.J. CONNELLY, Mayor

[SEAL]

Attest:

CAROL L. BARWICK, City Clerk
NORTH CAROLINA

PITT COUNTY

I, _____, a Notary Public of the aforesaid County and State, certify that CAROL L. BARWICK personally came before me this day and acknowledged that she is City Clerk of the City of Greenville, North Carolina, and that by authority duly given and as the act of the City of Greenville, North Carolina, the foregoing instrument was signed in its name by its Mayor, sealed with its official seal and attested by her as its City Clerk.

WITNESS my hand and official stamp or seal, this the _____ day of _____, 20____.

NOTARY PUBLIC

My Commission Expires: _____

Prepared by: Phillip R. Dixon, Attorney
File: Greenville Utilities Commission
Post Office Box 1847
Greenville, NC 27835

NORTH CAROLINA

DEED OF RELEASE

PITT COUNTY

THIS DEED OF RELEASE, made and entered into this the ____ day of _____, 20____, by and between the City of Greenville, North Carolina, a municipal corporation in Pitt County, North Carolina, party of the first part (hereinafter called GRANTOR), and George N. Naoum and Mary Jarvis Naoum, 1011 Charles Blvd Ste A, Greenville, North Carolina 27858, party of the second part (hereinafter called GRANTEES).

W I T N E S S E T H

THAT WHEREAS, the GRANTOR for the use and benefit of Greenville Utilities Commission previously received a Utility Easement seventy feet (70') in width, more or less, across property commonly known as Tax Parcel No. 15578 according to the records in the Office of the Tax Administration of Pitt County, North Carolina, which said easement is more particularly described on that certain plat appearing of record in Map Book 80 at Page 26, Pitt County Public Registry (Exhibit "A"), and more particularly described on that certain diagram entitled Taft-Ward Investments LLC, Proximity at 10th Easement to be Abandoned Pitt County, NC which is attached hereto (Exhibit "B"), to which reference is hereby made for a more particular and accurate description of such seventy foot (70') wide, more or less, Utility Easement to be abandoned; and

WHEREAS, the current owner of the underlying fee interest in such property subject to the said seventy foot (70') wide, more or less, Utility Easement is now GRANTEE; and

WHEREAS, Greenville Utilities Commission requested GRANTOR to indicate formally that it has no plans or interest in such property encumbered by such seventy foot (70') wide, more or less, Utility Easement to be abandoned; and

WHEREAS, Greenville Utilities Commission has therefore requested GRANTOR to execute a Deed of Release to GRANTEE, or the current owners of such property, to indicate its abandonment and release of such previous seventy foot (70') wide, more or less, Utility Easement

as described herein as to be abandoned and as shown on Exhibits "A" and "B" which are attached hereto and made a part hereof; and

WHEREAS, the City Council of the GRANTOR, acting on the recommendation of Greenville Utilities Commission, has duly adopted the Resolution abandoning to GRANTEE, such seventy foot (70') wide, more or less, Utility Easement, a copy of which said Resolution is attached hereto as Exhibit "C" and made a part hereof.

NOW THEREFORE, pursuant to and in accordance with said Resolution, GRANTOR does hereby remise, release, discharge and forever quitclaim unto GRANTEES, George N. Naoum and Mary Jarvis Naoum, 1011 Charles Blvd Ste A, Greenville, North Carolina 27858, as the current owners of the subject property, their heirs and assigns, all the GRANTOR's rights, title and interest in and to such seventy foot (70') wide, more or less, Utility Easement to be abandoned as shown on Exhibits "A" and "B" and more particularly described as follows:

Beginning at an Existing Iron Pipe (EIP) at the northeast corner of Tax Parcel No. 21808 (Reference is hereby made to Deed Book 3308 at Page 133, Pitt County Public Registry), and in the western right-of-way of Charles Street (50' Public R/W; 30' B/B) and traveling North 79°01'26" West 455.78', more or less (59.99' + 59.86' + 238.88' + 59.15' + 37.92') to a point; cornering, thence North 12°08'49" West 76.11', more or less, to a point; cornering, thence 79°01'26" West 485.26', more or less (185.16' + 180.15' + 119.95'), to an Existing Iron Pipe (EIP) in the northern right-of-way of the portion of Eleventh Street which has been closed and abandoned, which is also situated in the western right-of way of Charles Street (50' Public R/W; 30' B/B), cornering, thence South 10°38'06" West 70.00', more or less, to an Existing Iron Pipe (EIP) in the northwest corner of Tax Parcel No. 21808 as hereinabove described, the Point of Beginning, being all as shown on that certain plat entitled "Street Closing Map for A Portion of Eleventh Street City of Greenville, Greenville Township, Pitt Co., N.C." dated February 10, 2016 and denominated Drawing No. Z-2612, prepared by Patrick W. Hartman, Professional Land Surveyor No. L-4262, Rivers & Associates, Inc., Engineers Planners Surveyors Landscape Architects, 107 East Second Street, Greenville, North Carolina 27858, telephone number (252) 752-4135, which appears of record in Map Book 80 at Page 26, Pitt County Public Registry, which is incorporated by reference and to which reference is hereby made for a more particular and accurate description of the easement to be abandoned.

IN TESTIMONY WHEREOF, GRANTOR has caused this Deed of Release to be executed in its name by its Mayor, attested by the City Clerk, and its official seal hereto affixed, all by Resolution duly entered by the City Council of GRANTOR, on the day and year first above written.

CITY OF GREENVILLE, NORTH CAROLINA

By: _____
P.J. CONNELLY, Mayor

[SEAL]

Attest:

CAROL L. BARWICK, City Clerk
NORTH CAROLINA

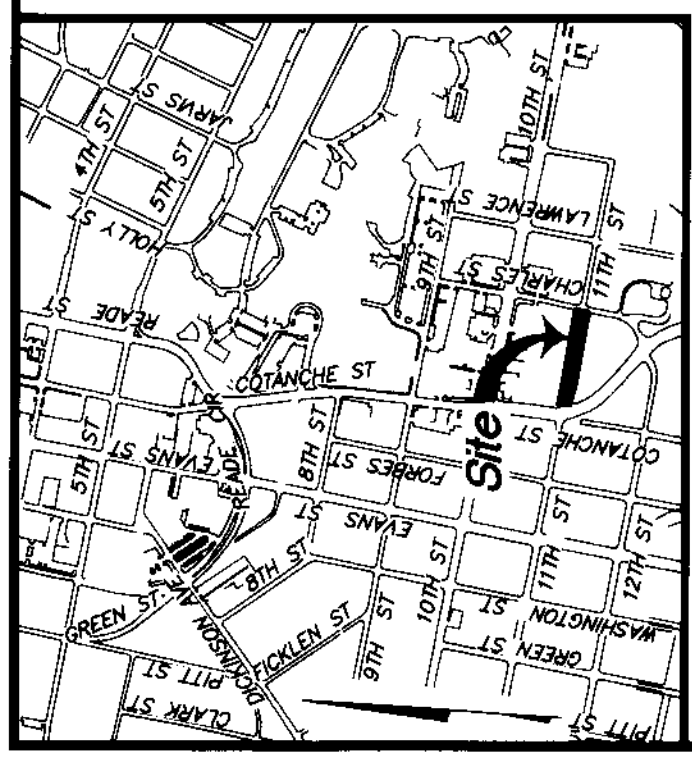
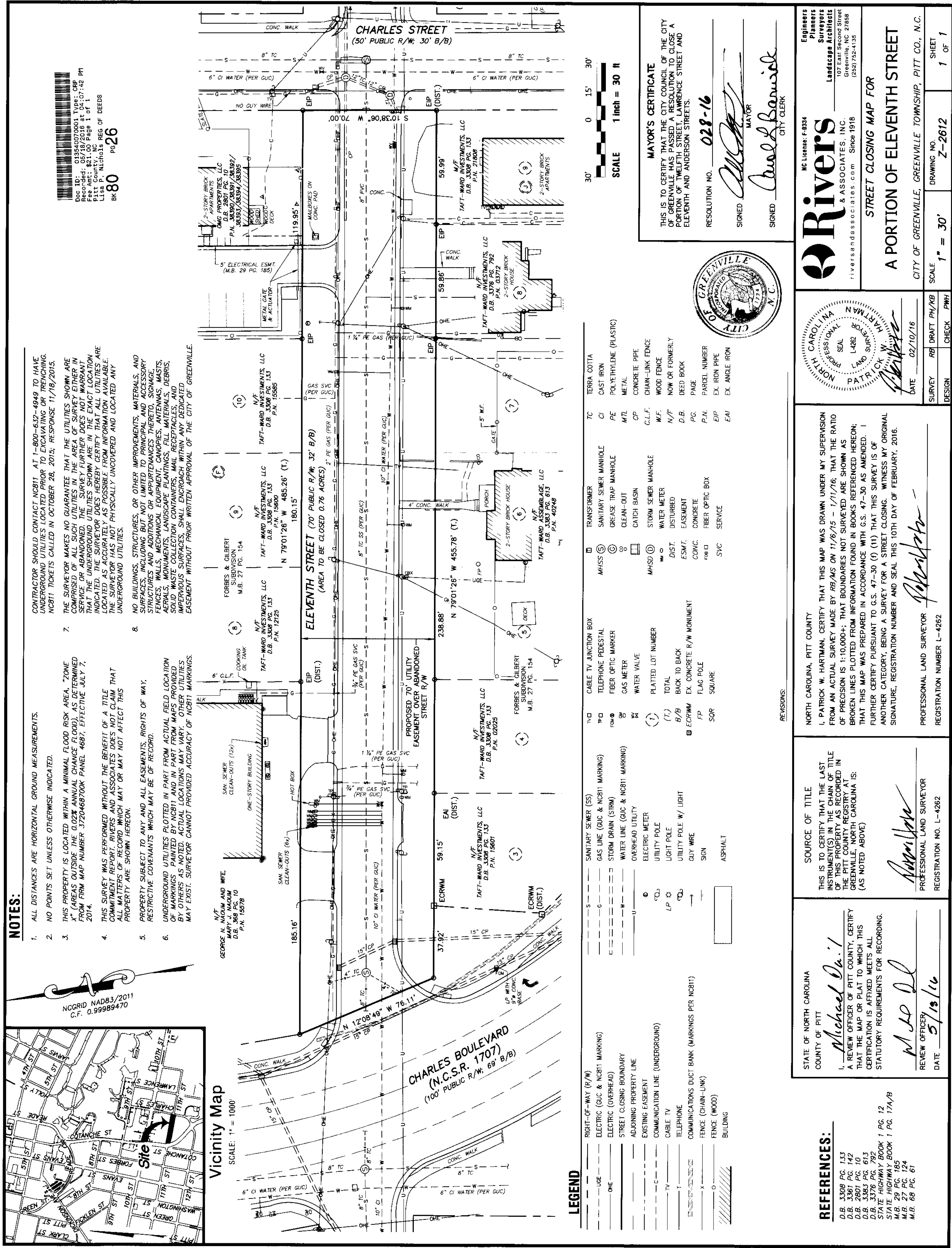
PITT COUNTY

I, _____, a Notary Public of the aforesaid County and State, certify that CAROL L. BARWICK personally came before me this day and acknowledged that she is City Clerk of the City of Greenville, North Carolina, and that by authority duly given and as the act of the City of Greenville, North Carolina, the foregoing instrument was signed in its name by its Mayor, sealed with its official seal and attested by her as its City Clerk.

WITNESS my hand and official stamp or seal, this the _____ day of _____, 20____.

NOTARY PUBLIC

My Commission Expires: _____



NOTES:

- ALL DISTANCES ARE HORIZONTAL GROUND MEASUREMENTS.
- NO POINTS SET UNLESS OTHERWISE INDICATED.
- THIS PROPERTY IS LOCATED WITHIN A MINIMAL FLOOD RISK AREA, "ZONE X" (AREAS OUTSIDE THE 0.02% ANNUAL CHANCE FLOOD), AS DETERMINED FROM FIRM MAP NUMBER 3720468700K PANEL 4687, EFFECTIVE JULY 7, 2014.
- THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT REPORT. RIVERS AND ASSOCIATES DOES NOT CLAIM THAT ALL MATTERS OF RECORD WHICH MAY OR MAY NOT AFFECT THIS PROPERTY ARE SHOWN HEREON.
- PROPERTY SUBJECT TO ANY AND ALL EASEMENTS, RIGHTS OF WAY, RESTRICTIVE COVENANTS WHICH MAY BE OF RECORD.
- UNDERGROUND UTILITIES PLOTTED IN PART FROM ACTUAL FIELD LOCATION OF MARKINGS PAINTED BY NC811 AND IN PART FROM MAPS PROVIDED BY OTHERS AS NOTED ACTUAL LOCATIONS MAY VARY. OTHER UTILITIES MAY EXIST. SURVEYOR CANNOT PROVIDED ACCURACY OF NC811 MARKINGS.

- CONTRACTOR SHOULD CONTACT NC811 AT 1-800-632-4949 TO HAVE UNDERGROUND UTILITIES LOCATED PRIOR TO EXCAVATING OR TRENCHING. NC811 TICKETS CALLED IN OCTOBER 28, 2015; RESPONSE 11/18/2015.
- THE SURVEYOR MAKES NO GUARANTEE THAT THE UTILITIES SHOWN ARE COMPRISED OF ALL SUCH UTILITIES IN THE AREA OF SURVEY EITHER IN SERVICE OR ABANDONED. THE SURVEY FURTHER STATES THAT INFORMATION THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED, THE SURVEYOR DOES HEREBY CERTIFY THAT THE UTILITIES ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY UNCOVERED AND LOCATED ANY UNDERGROUND UTILITIES.
- NO BUILDINGS, STRUCTURES, OR OTHER IMPROVEMENTS, MATERIALS, AND SURFACES, INCLUDING BUT NOT LIMITED TO PRINCIPAL AND ACCESSORY STRUCTURES AND ADDITIONS OR IMPROVEMENTS THERETO, SIGNAGE, FENCES, WALLS, MECHANICAL EQUIPMENT, CANOPIES, ANTENNAS, MASTS, AERIALS, MONUMENTS, LANDSCAPE PLANTINGS, FILL MATERIALS, DEBRIS, SOLID WASTE COLLECTION CONTAINERS, MAIL RECEPTACLES, AND IMPERVIOUS SURFACES, SHALL ENCRUSCH WITHIN ANY DEDICATED EASEMENT WITHOUT PRIOR WRITTEN APPROVAL OF THE CITY OF GREENVILLE.

LEGEND

- RIGHT-OF-WAY (R/W)
- ELECTRIC (GUC & NC811 MARKING)
- ELECTRIC (OVERHEAD)
- STREET CLOSING BOUNDARY
- ADJOINING PROPERTY LINE
- EXISTING EASEMENT
- COMMUNICATION LINE (UNDERGROUND)
- CABLE TV
- TELEPHONE
- COMMUNICATIONS DUCT BANK (MARKINGS PER NC811)
- FENCE (CHAIN-LINK)
- FENCE (WOOD)
- BUILDING

SYMBOL	DESCRIPTION
(1)	CABLE TV JUNCTION BOX
(2)	TELEPHONE PEDESTAL
(3)	FIBER OPTIC MARKER
(4)	GAS METER
(5)	WATER VALVE
(6)	PLATTED LOT NUMBER
(7)	TOTAL BACK TO BACK
(8)	EASEMENT EX. CONCRETE R/W MONUMENT
(9)	FLAG POLE
(10)	SQUARE
(11)	ASPHALT

SYMBOL	DESCRIPTION
(12)	SANITARY SEWER (SS)
(13)	GAS LINE (GUC & NC811 MARKING)
(14)	STORM DRAIN (STRM)
(15)	WATER LINE (GUC & NC811 MARKING)
(16)	OVERHEAD UTILITY
(17)	ELECTRIC METER
(18)	UTILITY POLE
(19)	UTILITY POLE W/ LIGHT
(20)	GUY WIRE
(21)	SIGN
(22)	ASPHALT

SYMBOL	DESCRIPTION
(23)	TRANSFORMER
(24)	SANITARY SEWER MANHOLE
(25)	GREASE TRAP MANHOLE
(26)	CLEAN-OUT
(27)	CATCH BASIN
(28)	STORM SEWER MANHOLE
(29)	WATER METER
(30)	DISTURBED
(31)	EASEMENT
(32)	CONCRETE
(33)	FIBER OPTIC BOX
(34)	SVC
(35)	SERVICE

SYMBOL	DESCRIPTION
(36)	TERRA COTTA
(37)	CAST IRON
(38)	POLYETHYLENE (PLASTIC)
(39)	METAL
(40)	CONCRETE PIPE
(41)	CHAIN-LINK FENCE
(42)	WOOD FENCE
(43)	NOW OR FORMERLY
(44)	DEED BOOK
(45)	PAGE
(46)	PARCEL NUMBER
(47)	EX. IRON PIPE
(48)	EX. ANGLE IRON

MAYOR'S CERTIFICATE

THIS IS TO CERTIFY THAT THE CITY COUNCIL OF THE CITY OF GREENVILLE HAS PASSED A RESOLUTION TO CLOSE A PORTION OF TWELFTH STREET, LAWRENCE STREET AND ELEVENTH AND ANDERSON STREETS.

RESOLUTION NO. **028-16**

SIGNED *[Signature]* MAYOR

SIGNED *[Signature]* CITY CLERK



Engineers
Planners
Surveyors
Landscape Architects

Rivers

NC License: F-9334

107 East Second Street
Greenville, NC 27658
(252) 752-4135

STREET CLOSING MAP FOR

A PORTION OF ELEVENTH STREET

CITY OF GREENVILLE, GREENVILLE TOWNSHIP, PITT CO., N.C.

SCALE 1" = 30'

DRAWING NO. Z-2612

SHEET 1 OF 1

DESIGN DATE 02/10/16

CHECK DATE 02/10/16

PH/KB DATE 02/10/16

PWH DATE 02/10/16

REVISIONS:

NORTH CAROLINA, PITT COUNTY

I, PATRICK W. HARTMAN, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE BY RB/MS ON 11/6/15 - 1/11/16. THAT THE RATIO OF PRECISION IS 1:10,000+; THAT BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND IN BOOKS REFERENCED HEREON; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. I FURTHER CERTIFY PURSUANT TO G.S. 47-30 (f) (1) THAT THIS SURVEY IS OF ANOTHER CATEGORY, BEING A SURVEY FOR A STREET CLOSING. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 10TH DAY OF FEBRUARY, 2016.

PROFESSIONAL LAND SURVEYOR
REGISTRATION NUMBER L-4262

SOURCE OF TITLE

THIS IS TO CERTIFY THAT THE LAST INSTRUMENT(S) IN THE CHAIN OF TITLE OF THIS PROPERTY AS RECORDED IN THE PITT COUNTY REGISTRY AT GREENVILLE, NORTH CAROLINA IS: (AS NOTED ABOVE)

PROFESSIONAL LAND SURVEYOR
REGISTRATION NO. L-4262

STATE OF NORTH CAROLINA
COUNTY OF PITT

Michael Da...

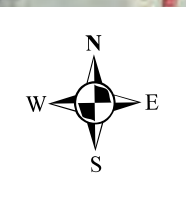
I, *Michael Da...* A REVIEW OFFICER OF PITT COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

STATE HIGHWAY BOOK 1 PG. 12
STATE HIGHWAY BOOK 1 PG. 17A/B
M.B. 29 PG. 185
M.B. 27 PG. 124
M.B. 68 PG. 61

REVIEW OFFICER *[Signature]*
DATE 5/13/16

- REFERENCES:**
- D.B. 3308 PG. 133
 - D.B. 3361 PG. 142
 - D.B. 2581 PG. 10
 - D.B. 2583 PG. 93
 - D.B. 3375 PG. 92
 - STATE HIGHWAY BOOK 1 PG. 12
 - STATE HIGHWAY BOOK 1 PG. 17A/B
 - M.B. 29 PG. 185
 - M.B. 27 PG. 124
 - M.B. 68 PG. 61

EXHIBIT A



E ELEVENTH ST

CHARLES ST

70' Easement to be Abandoned

E ELEVENTH ST

CHARLES BLVD

**Taft-Ward Investments, LLC
Proximity at 10th
Easement to be Abandoned
Pitt County, NC**



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Resolution requesting permission to locate public art within North Carolina Department of Transportation right of way along 10th Street

Explanation: **Abstract:** The City of Greenville is requesting permission from the North Carolina Department of Transportation (NCDOT) to locate public art within the NCDOT right of way along each side of the 10th Street Connector perpendicular to Pitt Street.

Explanation: The City of Greenville is committed to the continued implementation of community place making and beautification by way of public art. As such, the City maintained interest in placing public art along each side of the corridor currently known as the 10th Street Connector perpendicular to Pitt Street once the roadway was open to traffic. This public art was anticipated to be placed along a gateway corridor; however, as development plans changed, an alternative location was needed. The two sculptures will be located within the NCDOT right of way along the 10th Street Connector just east of the Dickinson Avenue Bridge overpass.

The sculptures would be mounted on a ten (10') ft. by ten (10') ft. concrete pad for appropriate display. The concrete pads are located on each side of the corridor approximately fifteen (15') feet from the back of curb. Based on the spacing from the back of curb, placement in this area would locate the art within NCDOT's right of way. In compliance with the "North Carolina Public Art on the Right of Way," a resolution requesting the NCDOT Right of Way Art Committee to review and approve deployment of public art within NCDOT right of way is required by the City to begin permitting requirements necessary to display art within NCDOT right of way.

Fiscal Note: There is no cost to the City for this item.

Recommendation: City Council adopt a resolution requesting the NCDOT Right of Way Art Committee review and approve the City's request to locate public art within NCDOT right of way along the 10th Street Connector.

ATTACHMENTS:

☐ **RESOLUTION_request_for_public_art_along_10th_Street_1107985**

RESOLUTION NO. _____
RESOLUTION OF REQUEST TO THE NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION TO DISPLAY PUBLIC ART WITHIN NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION RIGHT OF WAY ALONG 10TH STREET

WHEREAS, the North Carolina Department of Transportation (NCDOT) recognizes and values the importance of integrating Context Sensitive components into the design and operation of its transportation facilities and facilities enhanced by public art elements provide aesthetic and cultural benefits to a community; and,

WHEREAS, the NCDOT has developed a policy, known as the “North Carolina Public Art on the Right of Way Policy” to define and establish procedures for incorporation and deployment of public art within NCDOT right of way; and,

WHEREAS, public art is defined within this policy as artwork, paintings, sculptures, columns, castings, obelisks, architectural and design features or other visual interests that may be freestanding or placed on roadway structural features such as noise walls, retaining walls, sidewalks, bridges, bike paths or other approved engineered structures; and,

WHEREAS, the City of Greenville requests permission to display public art within fifteen (15’) feet from the back of curb along the North and South side 10th Street; and,

WHEREAS, the City of Greenville shall provide and maintain, in the form of financial responsibility, public art approved for display within NCDOT right of way; and,

WHEREAS, the NCDOT Right of Way Art Committee shall review and evaluate requests for public art to be placed within NCDOT right of way on a case by case basis and in compliance with the “North Carolina Public Art right of Way Policy” and shall issue the sponsoring agency and encroachment agreement for projects, including any revisions, changes or modifications as required by the Committee; and,

WHEREAS, NCDOT reserves the right to (1) remove permitted Art from right of way due to safety concerns, failure of the local government agency to maintain properly, deterioration, or future highway construction and maintenance activities; and, (2) the right to reproduce Art for promotional purposes without paying compensation, regardless of copyright status and (3) the right to alter infrastructure, landscape, and other transportation related elements near and adjacent to the Art when required for the maintenance and operation of the transportation facility;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that it does request that NCDOT permit the City of Greenville to display public art within the NCDOT right of way along 10th Street.

This the 20th day of May, 2019.

P. J. Connelly, Mayor

ATTEST:

Carol L. Barwick, City Clerk



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Authorization to submit the Greenville Transportation Accessibility, Safety and Connectivity (TASC) Investment for the 2019 Better Utilizing Investment to Leverage Development (BUILD) Grant Opportunity

Explanation: **Abstract:** With City Council approval, a grant application will be submitted to the United States Department of Transportation (USDOT) for potential funding under the 2019 Better Utilizing Investment to Leverage Development (BUILD) grant program. The City's application, known as the Greenville Transportation Accessibility, Safety and Connectivity (TASC) Investment, leverages local and federal funding to fund \$24 million worth of infrastructure improvements to the City's multimodal transportation network.

Explanation: The Better Utilizing Investments to Leverage Development, or BUILD Transportation Discretionary Grant program, provides a unique opportunity for the United States Department of Transportation to invest in road, rail, transit and port projects that promise to achieve national objectives. The Notice of Funding Opportunity (NOFO) references an allocation of \$900 million in funding for projects submitted in 2019.

The Greenville Transportation Accessibility, Safety and Connectivity (TASC) Investment incorporates a mixture of roadway improvements and bicycle and pedestrian improvements. The overall purpose of the TASC Investment is to enhance the accessibility, safety and connectivity of the City's multimodal transportation network in four (4) key districts of the City: Medical District, West Greenville, Uptown and ECU Main Campus. This request could accelerate several City transportation projects multiple years in an effort to leverage that investment into economic opportunity for its citizens.

The TASC Investment incorporates seven (7) separate project components that work with previous investment to improve citizen accessibility, safety and connectivity to employment, education, housing, healthcare and recreation. The TASC project components are as follows:

- West 5th Street Phase 2 Streetscaping
 - Street Improvements from Cadillac Street to Sheppard Street
- West 5th Street Phase 3 Streetscaping
 - Street Improvements from Sheppard Street to Pitt Street
- 5th Street Phase 4 Streetscaping
 - Street Improvements from Pitt Street to Fifth Street
- South Tar River Greenway Phase 3B
 - Construct Phase 3B of South Tar River Greenway Connecting to the VA Clinic
- Moye Boulevard Multi Use Path Upgrade
 - Upgrade existing 5ft sidewalk to a 10ft multi use path
- Town Common Connector
 - Construct a greenway path between Town Commons and ECU Main Campus along the Town Creek Culvert
- Millennial Campus Connector
 - Construct a rails to trails greenway connecting Dickinson Avenue the future ECU Millennial campus

The proposed TASC Investment grant is \$24 million with up to 80% of the cost eligible for federal funding. Successful applications typically provide 25%-30% local match. Staff have begun discussions with potential public and private partners to reduce the overall cost to the City.

Fiscal Note:

The total cost of the TASC Investment is estimated at \$24 million with the City of Greenville responsible for at minimum 20% of the total cost (\$4.8 million) with the suggested match between 25%-30% (\$6 million-\$7.2 million). The City is engaging public and private partners to reduce the overall cost to the City.

Recommendation:

Authorize City staff to submit the Greenville TASC Investment, upon final approval of the City Manager, to USDOT for consideration for funding under the 2019 BUILD Discretionary Grant program.



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Approval of Task Order #1 for the Construction Engineering and Inspection (CEI) and Construction Materials Testing (CMT) On-Call Contract

Explanation: **Abstract:** On April 8, 2019, City Council approved an on-call contract for Construction Engineering and Inspection (CEI) and Construction Materials Testing (CMT) services with SEPI Engineering. Task Order #1 provides services for the 2019 Street Resurfacing Project under this on-call contract.

Explanation: At their April 8, 2019 meeting, City Council approved an on-call contract for Construction Engineering and Inspection (CEI) and Construction Materials Testing (CMT) services with SEPI Engineering. As projects arise that need these services, staff negotiates task orders with the consultant. Task Order #1 provides CEI and CMT services for the 2019 Street Resurfacing Project. The project provides for milling, resurfacing, deep patch repairs, ADA improvements, and pavement markings on various streets throughout the city. The estimated cost for this task order is \$164,400.

Fiscal Note: Funding for Task Order #1 is provided by the FY 2019 Street Resurfacing Program fund as approved by City Council.

Recommendation: City Council approve Task Order #1 under the on-call contract with SEPI Engineering in the amount of \$164,400.



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Approval of Task Order #2 for the Construction Engineering and Inspection (CEI) and Construction Materials Testing (CMT) On-Call Contract

Explanation: **Abstract:** On April 8, 2019, City Council approved an on-call contract for Construction Engineering and Inspection (CEI) and Construction Materials Testing (CMT) services with SEPI Engineering. Task Order #2 provides services for the Arlington Boulevard Improvements Project under this on-call contract.

Explanation: At their April 8, 2019 meeting, City Council approved an on-call contract for Construction Engineering and Inspection (CEI) and Construction Materials Testing (CMT) services with SEPI Engineering. As projects arise that need these services, staff negotiates task orders with the consultant. Task Order #2 provides CEI and CMT services for the Arlington Boulevard Improvements Project. The project provides street and drainage infrastructure improvements on Arlington Boulevard between Hooker Road and Greenville Boulevard. The estimated cost for this task order is \$218,760. The cost will include daily onsite inspection of the work performed as well as materials testing of soil compaction and asphalt quality.

Fiscal Note: Funding for this Task Order #2 is provided through the 2015 General Obligation Bond funds.

Recommendation: City Council approve Task Order #2 under the on-call contract with SEPI Engineering in the amount of \$218,760.



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Contract award for the 2019 Street Resurfacing Project

Explanation: **Abstract:** Bids were opened for the 2019 Street Resurfacing contract on April 23, 2019. The lowest responsible, responsive bid was submitted by S. T. Wooten Corporation of Wilson, NC, in the amount of \$2,574,890.15.

Explanation: The 2019 Street Resurfacing Project was advertised for bids on March 10, 2019, with the bid opening scheduled for April 10, 2019. Only two bids were received. Per State statute, staff readvertised the project with a new bid opening date of April 23, 2019. Two bids were received with the lowest responsible, responsive bid submitted by S. T. Wooten Corporation of Wilson, NC, in the amount of \$2,574,890.15. The contract provides for milling, resurfacing, deep patch repairs, ADA improvements, and pavement markings. A list of the streets to be completed is attached.

Fiscal Note: The contract amount is \$2,574,890.15. The project will be funded through the Street Resurfacing Program.

Recommendation: City Council award the contract for the 2019 Street Resurfacing Project to S. T. Wooten Corporation of Wilson, NC in the amount of \$2,574,890.15.

ATTACHMENTS:

- ❑ Street Resurfacing Bid Tab

- ▣ **Street Resurfacing Street List**
- ▣ **Street Resurfacing Contract**

BID OPENING

2019 STREET RESURFACING

CITY of GREENVILLE

APRIL 23, 2019

2:00 PM

CONTRACTOR	ACKNOWLEDGE ADDENDUM	M/WBE	NCA	BID AMOUNT
Rose Brothers	✓	✓	✓	\$ 2,681,499.50
ST Wooten	✓	✓	✓	\$ 2,574,890.15

STREET LISTING/ESTIMATES FOR ASPHALT AND MILLING – BASE BID

***Streets marked by asterisk will be milled with 4' Edge Milling**

Street Name	From	To
Bancroft Ave.	West 5 th St.	Farmville Boulevard
Bowman Gray Dr.	Johns Hopkins Dr.	Bethesda Dr.
Brownlea Dr.	North Warren St.	East 5 th St.
Cedar Ln.	South Wright Rd.	Street End
Chestnut St.	Columbia Ave.	Moye Boulevard
E Catawba	Haw Rd.	Haw Rd.
*Jackson Dr.	Jefferson Dr.	Jefferson Dr.
Jefferson Dr.	South Wright Rd.	Polk Ave.
*Myrtle St.	Pamlico Ave.	Columbia Ave.
*Myrtle St.	Pennsylvania Ave.	Wilson St.
N Skinner St.	Dickinson Ave.	Chestnut St.
Pinehurst Dr.	St. Andrews Dr.	Cul-De-Sac
South Village Dr.	Line Ave.	South Memorial Dr.
Scales Pl.	Johns Hopkins Dr.	Street End
*Summerhaven Dr.	Holden Dr.	E Fire Tower Rd.
*Vanderbilt Ln.	Bancroft Ave.	Fleming St.
14 th St.	Broad St.	Cotanche St.

PROPOSALS, CONTRACT FORMS
and SPECIFICATIONS
for
2019 STREET RESURFACING PROJECT

PROJECT NUMBER: PWD-2019-003



Greenville
N O R T H C A R O L I N A

Find yourself in good company

CITY OF GREENVILLE, NC
PUBLIC WORKS DEPARTMENT
1500 BEATTY STREET
GREENVILLE, NC 27834
252-329-4467

TABLE OF CONTENTS

	<u>Page Number</u>
Advertisement For Bidders	AB: 1-2
Instruction To Bidders	IB: 1-10
Bid Form	BF: 1-12
Bid Bond	BB: 1-2
Non-Collusion Affidavit of Prime Bidder	NCA: 1
Agreement	A: 1-6
Payment Bond	PB: 1-4
Performance Bond	PB: 5-6
Certificate of Insurance	CI: 1
Notice of Award	NA: 1
Notice to Proceed	NP: 1
Minority and Women-Owned Business Utilization Commitment	M/WBE: 1-14
N. C. Tax Statement & Certification	TSC: 1
Contractors Affidavit – Release of Liens and Waiver to Claims	CA: 1
General Conditions	GC: 1-62
Supplementary General Conditions	SC: 1-4
Standard Special Provisions	SSP: 1-16

DETAIL SPECIFICATIONS

DIVISION 1 - GENERAL REQUIREMENTS

Section 01010 – Project Requirements	01010: 1-8
Section 01090 – Reference Standards	01090: 1-4
Section 01150 – Unit Prices	01150: 1-4
Section 01300 – Submittals	01300: 1-4
Section 01400 – Quality Control	01400: 1-2
Section 01500 – Temporary Facilities	01500: 1-6
Section 01575 – Maintenance and Protection of Traffic	01575: 1-2

PROJECT SPECIAL PROVISIONS

PSP: 1-11

**ADVERTISEMENT FOR BIDDERS
GREENVILLE, NORTH CAROLINA**

Sealed bids are invited and will be received by the City of Greenville Public Works Department, 1500 Beatty Street, Greenville, NC 27834 until 2:00 p.m. local time on **Tuesday, April 9, 2019 at 2:00 p.m. local time**, and immediately thereafter the sealed bids will be publicly opened and read for furnishing and constructing the following facilities:

2019 Street Resurfacing Project

Bids must be submitted on the complete project. Bids must be enclosed in a sealed envelope, addressed to the City of Greenville, and the outside of the envelope must be marked "2019 Street Resurfacing Project, Greenville, North Carolina" along with the name, address, and license number of the Bidder. All bids must be made on blank forms provided and included in the bound document or provided through subsequent addenda.

The Street Resurfacing work will consist of full & edge milling of approximately 76,715 square yards of existing asphalt pavement, placing approximately 11,250 tons of Asphalt Concrete Surface Course, Type S 9.5C, 3,515 tons of Asphalt Concrete Base repairs/patching, ADA improvements, curb and gutter repairs, and making necessary adjustments to valves and manholes. The Project also includes the placement of thermoplastic & temporary pavement markings on several street. The Contractor will install improvements on City of Greenville and NCDOT Rights of Way and will be subject to their associated standards and specifications.

Each bid must be accompanied by cash or a certified check, drawn on a bank of trust company authorized to do business in North Carolina, payable to the City of Greenville in an amount at least equal to five percent (5%) of the total amount of the bid, as a guarantee that a contract will be entered into. In lieu of cash or a certified check, the Bidder may submit a bid bond in the form prescribed in G.S. 143-139 as amended by Chapter 1104 of the Public Laws of 1951.

Each bid proposal must be accompanied by all appropriate forms and documentation to be considered responsive, including applicable Minority and Women Owned Business forms.

Sales tax may be listed on the proposal, but as a separate item. No charge will be allowed for Federal Excise and Transportation Tax, from which the City of Greenville is exempt.

Contractors are notified that legislative acts relating to licensing of contractors will be observed in receiving bids and awarding contracts. Firms submitting a proposal are attesting that no official or employee of the City of Greenville is directly or indirectly interested in this proposal for any reason of personal gain.

E-Verify Compliance: The Bidder shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Bidder furnishes services, programs or goods to the City utilizing a subcontractor, the Bidder shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Bidder represents that the Bidder and its subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

Minority and Women Owned Firms are encouraged to submit proposals. Please note that as of July 1, 2009, the City of Greenville only accepts State-certified HUB contractors to fulfill the M/WBE requirements for City funded projects.

A Pre-Bid Conference will be held at the City of Greenville's Public Works Department, 1500 Beatty Street, Greenville, North Carolina on **Wednesday, March 27, 2019 at 2:00 p.m.** local time for all interested contractors, subcontractors, and materials suppliers.

From Monday, March 11, 2019 until the date of bid opening, plans and specifications will be on file and may be examined during normal office hours at City of Greenville Public Works Department. Digital copies of bid documents will be available for downloading at no cost from the City of Greenville's website by visiting <http://www.greenvillenc.gov/government/financial-services/current-bid-opportunities> Should there be any questions, please contact Amanda Braddy, Administrative Assistant, at (252) 329-4467 or ajbraddy@greenvillenc.gov.

The Successful Bidder will be required to provide a ***Performance and Payment Bond*** in the total aggregate penal sum equal to the total Contract Sum to complete all work established in the specifications.

The right is reserved to reject any or all bids, to waive informalities, and to award contract or contracts which, in the opinion of the Owner, appear to be in its best interest. The right is reserved to hold any or all proposals for a period of sixty (60) days from the opening thereof. Bid Tabulation Sheets will be mailed to all bona fide bidders.

City of Greenville
Public Works Department
Engineering Division
1500 Beatty Street
P.O. Box 7207
Greenville, NC 27835-7207
James Lynn Raynor, PE
Civil Engineer II
Telephone: (252) 329-4620
Email: lraynor@greenvillenc.gov

or Denisha Harris
Purchasing Manager
City of Greenville, NC
Telephone: (252) 329-4862
Fax: (252) 329-4464
Email: dharris@greenvillenc.gov

INSTRUCTION TO BIDDERS

1. Defined Terms

Terms used in these Instructions to Bidders that are defined in the Standard General Conditions of the Construction Contract (2007 Edition) have the meanings assigned to them in the General Conditions.

Certain additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof.

- 1.1.1 Bidder – one who submits a Bid directly to Owner as distinct from a sub-bidder, who submits a bid to a Bidder.
- 1.1.2 Issuing Office – the office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
- 1.1.3 Successful Bidder – the lowest, responsible and responsive Bidder to whom Owner (on basis of Owner's evaluation as hereinafter provided) makes an award.
- 1.1.4 Owner – the City of Greenville, NC.
- 1.1.5 Engineer – The Public Works Department, Engineering Division, of the City of Greenville.

2. Copies of Bidding Documents

- 2.1 Complete sets of the Bidding Documents in the number and for the sum, if any, stated in the Advertisement or Invitation to Bid may be obtained from the Issuing Office.
- 2.2 Complete sets of Bidding Documents must be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.3 Owner and Engineer in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

3. Qualifications of Bidders

- 3.1 To demonstrate Bidder's qualifications to perform the Work prior to award, within five days of Owner's request, Bidder shall submit written evidence which shall include, but not be limited to, the following:
 - 3.1.1 Official name of Bidder and length of time the organization has been in business under present name.
 - 3.1.2 Address and phone numbers of company office that will manage the Project if different than that provided in the Bid.
 - 3.1.3 Officers of the company. Name and resume of designated project manager and field superintendent. Number of regular employees of the organization.

- 3.1.4 Financial statements of the Bidder's company for the last three years including assets, liabilities, and other information requested by Owner to establish the Bidder's financial capability to complete the Project. The Bidder must also provide the names, addresses, and telephone numbers for at least two (2) major equipment suppliers, two (2) major material suppliers, and two (2) major subcontractors that the Owner may contact as financial references of the Bidder. Record of failure to honor contractual commitments, consistent non-payment or payment not completed in a timely manner, and/or unfavorable references will be grounds for the Owner to disqualify the Bidder.
- 3.1.5 Name and home office address of the Surety proposed and the name and address of the responsible local claim agent.
- 3.1.6 Past experience on similar type and size projects within the past five (5) years, in the state for which this Project is to be constructed. Information shall include the names of the projects with brief descriptions, contact names and phone numbers of owners and engineers familiar with the listed projects, schedule contract time and actual completion time, original and final contract price (include brief explanation of cost overruns and change orders), and subcontractors used on the projects. Evidence of the lack of experience on similar type and size projects, consistently unfavorable interviews with owners and engineers for the projects, a consistent record of not completing the work on schedule, a record of substantial claims for change orders (all evaluations based upon interviews with the listed contact names), will be grounds for the Owner to disqualify the Bidder.
- 3.1.7 A list of all projects the Bidder will have under construction and/or commitment to at the time of the anticipated Notice to Proceed (assume 60 days from the Bid date). This list shall include a complete description of each project including the type, size, structures, major equipment items, and contract amount. This list shall identify the office(s) from which these projects are being coordinated, managed, and staffed. The list shall also identify the number of personnel staffed for each project, along with the total number of personnel for the Bidder's corporation. Evidence that the Bidder is or will be "over-extended" during the Contract Time for this Project will be considered grounds for the Owner to disqualify the Bidder.
- 3.1.8 A list of all subcontractors and suppliers expected to be utilized on this Project. The list shall include past project experience of the subcontractors and suppliers for similar type and size projects. Include contact names and telephone numbers of the subcontractors and suppliers listed for the Project.
- A record of poor financial history with the listed subcontractors and suppliers (as outlined in Item "E" above), failure of the Bidder to provide the proper Contract Documents to the subcontractors and/or suppliers for their bidding purposes, and/or lack of experience on similar type and size projects will be considered grounds for the Owner to disqualify the Bidder.
- 3.1.9 Statement that bidder is capable of completing the project within the stated time.
- 3.1.10 The Bidder shall list any and all construction related claims or legal actions by the Contractor against Owners or Engineers in the last five years. Provide a list of any and all construction related claims or legal actions by the Owners, Engineers, or Subcontractors in the last five years.
- Evidence of a pattern of claims and/or legal action either by the Bidder or against the Bidder will be considered grounds for the Owner to disqualify the Bidder.

4. Examination of Contract Documents and Site.

- 4.1 It is the responsibility of each Bidder before submitting a Bid:
- 4.1.1. To examine thoroughly the Contract Documents and other related data identified in the Bidding Documents (including "technical data" referred to below):
 - 4.1.2. To visit the site to become familiar with and satisfy Bidder as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work;
 - 4.1.3. To consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work;
 - 4.1.4. To study and carefully correlate Bidder's knowledge and observations with the Contract Documents and such other related data; and
 - 4.1.5. To promptly notify Engineer of all conflicts, errors, ambiguities or discrepancies that Bidder has discovered in or between the Contract Documents and such other related documents.

4.2 Reference is made to the Supplementary Conditions for identification of the following:

- 4.2.1 Those reports of explorations and tests of subsurface conditions at or contiguous to the site which have been utilized by Engineer in preparation of the Contract Documents. Bidder may rely upon the general accuracy of the "technical data" contained in such reports but not upon other data, interpretations, opinions or information contained in such reports or otherwise relating to the subsurface conditions at the site, nor upon the completeness thereof for the purposes of bidding or construction. Subsurface data are offered in good faith solely for the purpose of placing the Bidder in receipt of all information available to the Owner and the Engineer and in no event is to be considered part of the Contract Documents.
 - 4.2.2 Those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the site that have been utilized by Engineer in preparation of the Contract Documents. Bidder may rely upon the general accuracy of the "technical data" contained in such drawings but not upon other data, interpretations, opinions or information shown or indicated in such drawings or otherwise relating to such structures, nor upon the completeness thereof for the purposes of bidding or construction. Copies of such reports and drawings will be made available by Owner to any Bidder on request. Those reports and drawings are part of the Contract Documents. Bidder is responsible for any interpretation or conclusion drawn from any "technical data" or any such data, interpretations, opinions or information.
 - 4.2.3 Information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities or others, and Owner and Engineer do not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.
- 4.3 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders

with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Contract Documents due to differing or unanticipated conditions appear in Paragraphs 4.02 and 4.03 of the General Conditions.

- 4.4 Before submitting a Bid each Bidder will be responsible to obtain such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.
- 4.5 On request, Owner will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests and studies, as each Bidder deems necessary for submission of a Bid. Bidder must fill all holes and clean up and restore the site to its former conditions upon completion of such explorations, investigations, tests and studies.
- 4.6 Reference is made to the Supplementary Conditions or the Division 1 Project Requirements for the identification of the general nature of work that is to be performed at the site by Owner or others (such as utilities and other prime contractors) that relates to the work for which a Bid is to be submitted. On request, Owner will provide to each Bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such work.
- 4.7 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and applying the specific means, methods, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Contract Documents and the written resolutions thereof by Engineer is acceptable to Bidder, and that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.
- 4.8 The Provisions of IB-4.1 through 4.8, inclusive, do not apply to Asbestos, Polychlorinated biphenyl (PCB), Petroleum, Hazardous Waste or Radioactive Material covered by Paragraph 4.06 of the General Conditions.

5. Availability of Lands for Work, etc.

The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by CONTRACTOR in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by the CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Contract Documents.

6. Interpretations and Addenda.

- 6.1. All questions about the meaning or intent of the Bidding Documents are to be directed to the Engineer. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than ten days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 6.2. Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner or Engineer.

7. Bid Security.

- 7.1 Each Bid must be accompanied by Bid security made payable to Owner in an amount of five percent of Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond (on form attached, if a form is prescribed) issued by a surety meeting the requirements of Paragraph 5.02 of the General Conditions.
- 7.2 The Bid security of Successful Bidder will be retained until such Bidder has executed the Agreement, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within fifteen days after the Notice of Award, Owner may annul the Notice of Award and the Bid security of that Bidder will be forfeited.

The Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of the seventh day after the Effective Date of the Agreement or the sixtieth day after the Bid opening, whereupon Bid security furnished by such Bidders will be returned. Bid security with Bids which are not competitive will be returned within seven days after the Bid opening if requested by Bidder.

8. Contract Times.

The number of days within which, or the dates by which, the Work is to be substantially completed and also completed and ready for final payment (the term "Contract Times" is defined in paragraph 1.01A(14) of the General Conditions) are set forth in the Agreement and incorporated therein by reference to the attached Bid Form.

9. Liquidated Damages.

Liquidated damages are \$500 per day. Provisions for liquidated damages are set forth in the Agreement and incorporated therein by reference to the attached Bid Form.

10. Substitute and "Or Equal" Items.

The Contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute of "or equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or equal" item or material or equipment may be furnished or used by

CONTRACTOR if acceptable to Engineer, application for such acceptance will not be considered by Engineer until after the Effective Date of the Agreement. The procedure for submission of any such application by CONTRACTOR and consideration by Engineer is set forth in Paragraph 6.05 of the General Conditions and may be supplemented in the Division 1 Project Requirements.

11. Subcontractors, Suppliers and Others.

If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers and other persons and organizations (including those who are to furnish the principal items of material and equipment) to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening submit to Owner a list of all such Subcontractors, Suppliers and other persons and organizations proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, person or organization if requested by Owner. An Owner or Engineer who after due investigation has reasonable objection to any proposed Subcontractor, Supplier, other person or organization, may before the Notice of Award is given request apparent Successful Bidder to submit an acceptable substitute, without an increase in Bid price.

If apparent Successful Bidder declines to make any such substitution, Owner may award the contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers and other persons and organizations. The declining to make requested substitutions would not constitute grounds for sacrificing the Bid security of any Bidder. Any Subcontractor, Supplier, other person or organization listed and to whom Owner or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.06B of the General Conditions.

- 11.2 Refer to MINORITY BUSINESS SUPPLEMENTAL CONDITIONS for the City of Greenville's M/WBE goals.
- 11.3 No CONTRACTOR shall be required to employ any Subcontractor, Supplier, other person or organization against which CONTRACTOR has reasonable objection.

12. Bid Form.

- 12.1 The Bid Form is included with the Bidding Documents; additional copies may be obtained from Engineer (or the Issuing Office).
- 12.2 All blanks on the Bid Form must be completed by printing in ink or by typewriter.
- 12.3 Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.
- 12.4 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

- 12.5 All names must be typed or printed in ink below the signature.
- 12.6 The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).
- 12.7 The address and telephone number for communications regarding the Bid must be shown.
- 12.8 Evidence of authority to conduct business as an out-of-state corporation in the state where the Work is to be performed shall be provided in accordance with Paragraph 3 above. State Contractor license number must also be shown.

13. Submission of Bids.

13.1 Bids shall be submitted at the time and place indicated in the Advertisement of Invitation to Bid and shall be enclosed in an opaque sealed envelope, marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted) and name and address of Bidder and accompanied by the Bid security and other required documents. If the Bid is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it. Facsimile (Fax) bids are not acceptable.

13.2 The following items must be submitted as part of the completed Bid package at the time of Bid:

- Bid Form
- Bid Security - Bid Bond or Certified Check
- Non-Collusion Affidavit
- M/WBE Documentation

14. Modification and Withdrawal of Bids.

14.1 Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

14.2 If, within seventy-two hours after Bids are opened, any Bidder files a duly signed, written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid and the Bid security will be returned in accordance with applicable North Carolina laws. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

15. Opening of Bids.

Bids will be opened and (unless obviously non-responsive) read aloud publicly at the place where Bids are to be submitted. An abstract of the amounts of the base Bids and major alternates (if any) will be made available to Bidders after the opening of Bids.

16. Bids to Remain Subject to Acceptance.

All Bids will remain subject to acceptance for sixty (60) days after the day of the Bid opening, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to that date.

17. Award of Contract.

- 17.1 Owner reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, non-responsive, unbalanced or conditional Bids and to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner, including but not limited to past performance by the bidder involving other City projects. Owner also reserves the right to waive all informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Bidder. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.
- 17.2 In evaluating Bids, Owner will consider the qualifications of Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 17.3 Owner may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. Owner also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.
- 17.4 Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.
- 17.5 If the contract is to be awarded, it will be awarded to lowest Bidder whose evaluation by owner indicates to Owner that the award will be in the best interests of the Project.
- 17.6 The Owner reserves the right to award any or all parts of a Contract but separate parts of the same Contract will not be awarded to different contractors.
- 17.7 If the contract is to be awarded, Owner will give Successful Bidder a Notice of Award within sixty days after the day of the Bid opening.

18. Contract Security.

Paragraph 5.1 of the General Conditions and the Supplementary Conditions set forth Owner's requirements as to performance and payment bonds. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by the required performance and payment Bonds.

19. Signing of Agreement.

When Owner gives a Notice of Intent to Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within ten (10) days thereafter CONTRACTOR shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner with the required Bonds. Within fourteen (14) days after award Owner shall deliver one fully signed counterpart to CONTRACTOR. Each counterpart is to be accompanied by a complete set of the Drawings with appropriate identification.

INTENTIONALLY LEFT BLANK

S. T. WOOTEN

BID FORM

PROJECT IDENTIFICATION: **2019 Street Resurfacing Project
PWD-2018-002
GREENVILLE, NORTH CAROLINA**

THIS BID IS SUBMITTED TO: **CITY OF GREENVILLE PUBLIC WORKS DEPARTMENT
1500 BEATTY STREET
GREENVILLE, NORTH CAROLINA**

1. The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid Price and within the Bid Times indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.
2. BIDDER accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for sixty days after the day of Bid opening. BIDDER will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within ten days after the date of OWNER'S Notice of Award.
3. In submitting this Bid, BIDDER represents, as more fully set forth in the Agreement, that:
 - (a) BIDDER has examined and carefully studied the Bidding Documents and the following Addenda receipt of all, which is hereby acknowledged: (List Addenda by Addendum Number and Date)

<u>Addendum Number</u>	<u>Date</u>
1	4/1/19

- (b) BIDDER has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance and furnishing of the Work;
- (c) BIDDER is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.
- (d) BIDDER has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions. BIDDER accepts the determination set forth in paragraph the Supplementary Conditions of the extent of the "technical data" contained in such reports and

BID FORM

BF-1

drawings upon which BIDDER is entitled to rely as provided in paragraph 4.02 of the General Conditions. BIDDER acknowledges that such reports and drawings are not Contract Documents and may not be complete for BIDDER'S purposes. BIDDER acknowledges that OWNER and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bidding Documents with respect to Underground Facilities at or contiguous to the site. BIDDER has obtained and carefully studied (or assumes responsibility for not having done so) all such additional or supplementary examinations, investigations, explorations, tests studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by BIDDER and safety precautions and programs incident thereto. BIDDER does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the determination of this Bid for performance and furnishing of the Work in accordance with the times, price and other terms and conditions of the Contract Documents.

- (e) BIDDER is aware of the general nature of Work to be performed by Owner and others at the site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
 - (f) BIDDER has correlated the information known to BIDDER, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
 - (g) BIDDER has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that BIDDER has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to BIDDER, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
 - (h) This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; BIDDER has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; BIDDER has not solicited or induced any person, firm or corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for itself any advantage over any other BIDDER or over OWNER.
4. BIDDER will complete the Work in accordance with the Contract Documents for the following unit price(s):
- (a) All specific cash allowances are included in the price(s) set forth and have been computed in accordance with paragraph 11.02 of the General Conditions.
 - (b) Unit Prices have been computed in accordance with paragraph 11.03 of the General Conditions.

5. BIDDER acknowledges that quantities for unit price work are not guaranteed and final payment will be based on actual quantities determined as provided in the Contract Documents. BIDDER agrees that the Work will be completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions on or before the dates or number of calendar days indicated in the Agreement.
6. BIDDER accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.
7. BIDDER acknowledges that compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes is required by the Contractor and its Subcontractors by North Carolina law and the provisions of the Contract Documents. The BIDDER represents that the BIDDER and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Article 2 of Chapter 64 of the North Carolina General Statutes requires employers, that transact business in the State of North Carolina and employ 25 or more employees in the State of North Carolina, to electronically verify the legal employment status of an employee through the federal E-Verify program after hiring the employee to work in the State of North Carolina.
8. The following documents are attached to and made a condition of this Bid:
 - Required Bid Security in the form of Bid Bond or Certified Check
 - Non-Collusion Affidavit
 - M/WBE Documentation
9. Terms used in this Bid which are defined in the General Conditions or Instructions will have the meanings indicated in the General Conditions or Instructions.

SUBMITTED on the 10 day of APRIL, 2019.

By S. T. WOOTEN being a CORPORATION
Contractor's firm name Sole Proprietorship, Partnership, Corporation,
Company, firm

State Contractor License No. 2835

BY: [Signature]

ATTEST: [Signature]

TITLE: Vice President
(Owner, Partner, or Corporate President or
Vice-President only)

TITLE: Asst. Secretary
(~~Corporate Secretary~~ or Assistant Secretary only)

ADDRESS: P.O. Box 2408
Wilson, NC 27894

(SEAL)

SCHEDULE OF QUANTITIES FOR BID
2019 Street Resurfacing Project
OWNER: CITY OF GREENVILLE

BID OPENING DATE: April 9, 2019

The unit prices noted herein shall include installing in place, complete and accepted.

BASE BID

STREET RESURFACING, COLD MILLING OF ASPHALT PAVEMENTS, PAVEMENT MARKINGS/SIGNALS

Item No.	Item Description	Scheduled Quantities	Unit	Unit Price	Amount
1	MOBILIZATION	1	LS	\$60,000	\$60,000.-
2	ASPHALT CONCRETE SURFACE COURSE, S 9.5C	11,250	TON	\$100	\$1,125,000.-
3	ASPHALT PLANT MIX, PAVEMENT REPAIR, 4" DEEP	3,515	TON	\$150	\$527,250.-
4	ADJUST/REPLACE WATER/GAS VALVE BOXES	19	EA	\$525	\$9,975.-
5	ADJUST/REPLACE MANHOLES	34	EA	\$525	\$17,850.-
6	REMOVAL OF EXISTING SPEED HUMPS	3	EA	\$4000	\$12,000.-
7	REMOVAL OF EXISTING CONCRETE CURB AND GUTTER	210	LF	\$27	\$5,670.-
8	24" CONCRETE CURB AND GUTTER	210	LF	\$55	\$11,550.-
9	4" THK. CONCRETE SIDEWALK	30	SY	\$80	\$2,400.-
10	REMOVAL OF EXISTING WHEEL CHAIR RAMPS	74	EA	\$700	\$51,800.-
11	TYPE 1 CONCRETE WHEELCHAIR RAMP	15	EA	\$1,600	\$24,000.-
12	TYPE 1A CONCRETE WHEELCHAIR RAMP	4	EA	\$1,600	\$6,400.-
13	TYPE 2A CONCRETE WHEELCHAIR RAMP	27	EA	\$2,000	\$54,000.-
14	TYPE 3 CONCRETE WHEELCHAIR RAMP	8	EA	\$1,600	\$12,800.-
15	TYPE 4A CONCRETE WHEELCHAIR RAMP	20	EA	\$2,000	\$40,000.-
16	SEEDING AND MULCHING	334	SY	\$35	\$11,690.-
17	BACKFILL OF SHOULDERS/ROADWAY EDGES	260	SY	\$37	\$9,620.-
18	WORK ZONE TRAFFIC CONTROL	1	LS	\$59,000	\$59,000.-
19	MILLING ASPHALT PAVEMENT, 1" to 3" DEPTH	69,814	SY	\$5.60	\$390,958.40
20	MILLING ASPHALT PAVEMENT, EDGE MILLING	6,901	SY	\$6.75	\$46,581.75
21	4" THERMOPLASTIC WHITE LINE, 120 MILS	8,220	LF	\$2.40	\$19,728.-
22	12" THERMOPLASTIC WHITE LINE, 120 MILS	540	LF	\$6.50	\$3,510.-
23	24" THERMOPLASTIC WHITE LINE, 120 MILS	320	LF	\$14.-	\$4,480.-

BID FORM

BF-4

24	4" THERMOPLASTIC YELLOW LINE, 120 MILS	12,250	LF	2.40	29,400.-
25	THERMOPLASTIC PAVEMENT MARKING SYMBOLS, ARROWS (STRAIGHT OR TURN)	17	EA	200.-	3400.-
26	THERMOPLASTIC PAVEMENT MARKING SYMBOLS, COMBINATION ARROWS	8	EA	240.-	1920.-
27	THERMOPLASTIC PAVEMENT MARKING, BIKE LANE (HELMETED CYCLIST)	14	EA	650.-	9100.-
28	THERMOPLASTIC PAVEMENT MARKING, RXR (RAILROAD CROSSING)	8	EA	525.-	4200.-
29	TEMPORARY PAINT PAVEMENT MARKING LINES, 4" WHITE	8,220	LF	0.70	5754.-
30	TEMPORARY PAINT PAVEMENT MARKING LINES, 12" WHITE	540	LF	1.80	972.-
31	TEMPORARY PAINT PAVEMENT MARKING LINES, 24" WHITE	320	LF	3.30	1056.-
32	TEMPORARY PAINT PAVEMENT MARKING LINES, 4" YELLOW	12,250	LF	0.70	8575.-
33	TEMPORARY PAINT PAVEMENT MARKING SYMBOLS, ARROWS (STRAIGHT OR TURN)	17	EA	60.-	1020.-
34	TEMPORARY PAINT PAVEMENT MARKING SYMBOLS, COMBINATION ARROWS	8	EA	60.-	480.-
35	TEMPORARY PAINT PAVEMENT MARKING, BIKE LANE (HELMETED CYCLIST)	14	EA	105.-	1470.-
36	TEMPORARY PAINT PAVEMENT MARKING, RXR (RAILROAD CROSSING)	8	EA	160.-	1280.-

BASE BID:

\$ 2,574,890.15
~~2,798,294.95~~

Contractor

S. T. Wooten

License No.

2835

Signature

[Signature]

Date

April 10, 2019

BID FORM

BF-5

STREET LISTING/ESTIMATES FOR ASPHALT AND MILLING – BASE BID

***Streets marked by asterisk will be milled with 4' Edge Milling**

Street Name	From	To	Milling (SY)	Estimated 4" Base Repair (Tons)**	Resurfacing (Tons)	Thickness (inches)
Bancroft Ave.	West 5 th St.	Farmville Boulevard	6,606	366	741	2
Bowman Gray Dr.	Johns Hopkins Dr.	Bethesda Dr.	4,102	46	462	2
Brownlea Dr.	North Warren St.	East 5th St.	13,072	579	1465	2
Cedar Ln.	South Wright Rd.	Street End	5,174	0	585	2
Chestnut St.	Columbia Ave.	Moye Boulevard	11,221	378	1260	2
E Catawba	Haw Rd	Haw Rd	5,202	173	583	2
*Jackson Dr.	Jefferson Dr.	Jefferson Dr.	1,380	0	630	2
Jefferson Dr.	South Wright Rd.	Polk Ave.	2,194	97	246	2
*Myrtle St.	Pamlico Ave.	Columbia Ave.	402	14	134	2
*Myrtle St.	Pennsylvania Ave.	Wilson St.	2,616	284	953	2
N Skinner St.	Dickinson Ave.	Chestnut St.	1,257	0	142	2
Pinehurst Dr.	St Andrews Dr.	Cul-De-Sac	0	29	148	2
South Village Dr.	Line Ave.	South Memorial Dr.	4,071	46	458	2
Scales Pl.	Johns Hopkins Dr.	Street End	670	0	76	2
*Summerhaven Dr.	Holden Drive	East Fire Tower Rd.	1,710	395	799	2
*Vanderbilt Ln.	Bancroft Av	Fleming St.	400	0	313	2
14 th Street.	Broad St.	Cotanche St.	16,197	1,108	2251	2

INTERSECTION LISTING FOR CONCRETE WORK – BASE BID

Intersection	Corner	Work to be Completed
Bancroft Ave. at Lincoln St. (N)	NE, SE	Remove existing WCR, Install Type 1 WCR at NE & SE Corner
Bancroft Ave. at Vanderbilt St.	NE, SE	Remove existing WCR, Install Type 1 WCR at NE & SE Corner
Bancroft Ave. at Lincoln St.(S)	NE, SE	Remove existing Sidewalk, Install Type 3 WCR at SE Corner
Bancroft Ave. at Fleming St.	NW	Remove existing Sidewalk, Install Type 2A WCR at NW Corner
Cedar Lane at Golden Rd.	NW	Remove existing WCR, Install Type 1A WCR at NW
Cedar Lane past Cedar Ct. (1)	NW, SW	Remove existing WCR, Install Type 1 WCR at NW & SW Corner
Cedar Lane past Cedar Ct. (2)	NW, SW	Remove existing WCR, Install Type 1 WCR at NW & SW Corner
Cedar Lane past Cedar Ct. (3)	NW	Remove existing WCR, Install Type 2A WCR at NW Corner
Chestnut St. at Moye Blvd.	NW, NE	Remove existing WCR, Install Type 2A WCR at NW & NE Corner
Chestnut St. at Line Ave.	NW, NE	Remove existing WCR, Install Type 2A WCR at NW & NE Corner
Chestnut St. at Wilson St.	SE	Remove existing WCR, Install Type 1A WCR at SE Corner
Chestnut St. at Watauga Ave.	N	Remove existing WCR, Install Type 3 WCR at N Corner
Chestnut St. at Manhattan Ave.	NW, NE, SE	Remove existing WCR, Install Type 4A WCR at NW, NE, & SE Corners
Chestnut St. at Paris Ave.	N, W, E, S	Remove existing WCR, Install Type 4A WCR at N, W, E, & S
Chestnut St. at Raleigh St.	N, W, E, S	Remove existing WCR, Install Type 4A WCR at N, W, E, & S
Chestnut St. at Pennsylvania Ave.	N, W, E, S	Remove existing WCR, Install Type 4A WCR at N, W, E, & S

BID FORM

BF-7

Intersection	Corner	Work to be Completed
Jackson Dr. at Jefferson Dr.	N, W	Remove existing Sidewalk, Install Type 3 WCR at N
Jefferson Dr. at Polk Ave.	NW, SW	Remove existing Sidewalk, Install Type 3 WCR at NW & SW
Jefferson Dr. at Tryon Dr.	NW, SW	Remove existing Sidewalk, Install Type 3 WCR at SW
Jefferson Dr. at S Wright Rd.	NW, SW	Remove existing Sidewalk, Install Type 2A WCR at SW, Install Type 1 at NW
Myrtle St. at N Skinner St.	NE	Remove existing WCR, Install Type 4A WCR at NE
Myrtle St. at Watauga Ave.	NE	Remove existing WCR, Install Type 4A WCR at NE
Myrtle St. at Manhattan Ave.	SE	Remove existing WCR, Install Type 4A WCR at SE
Myrtle St. at Paris St.	S, E, W	Remove existing sidewalk and WCR, Install Type 4A at S & W. Install type 1A at E corner.
Myrtle St. at Spruce St.	SE	Remove existing WCR, Install Type 1A WCR at SE
Vanderbilt Ln. at Fleming St.	NE, NW	Remove existing WCR, Install Type 1 WCR at NE, Install type 2A at NW. Remove Type 3 on Fleming and install type 3 to other side of the pole in SW corner.
14 th Street at Dickerson Ave.	N, S, E, W	Remove existing WCR, Install Type 2A at all corners
14 th Street at Broad St.	N, S, E, W	Removing existing WCR, Install Type 2A at N, E, & W, Install Type 1 at S
14 th Street at Wade St.	N, S, W	Removing existing WCR, Install Type 3 at N corner. Install Type 1 at S corner. Install a type 1/2A retrofit at W corner. Also about 50 feet south include two Type 1 Replacements
14 th Street at Short St.	N, S, E, W	Removing existing WCR, Install Type 2A at W, Install Type 1 at E & S. Install a 2A/1 retrofit at N corner.
14 th Street at Beatty St.	N, S	Remove existing WCR & sidewalk, Install type 2A at S and type 3 at N
14 th Street at Clark St.	NE, NW	Remove existing WCR, Install Type 2A WCR at NW & NE Corner
14 th Street at S Pitt St.	NE, NW	Remove existing WCR, Install Type 2A WCR at NW & NE Corner
14 th Street at S Greene St.	NE, NW	Remove existing WCR, Install Type 2A WCR at NW & NE Corner

BID FORM

BF-8

Intersection	Corner	Work to be Completed
14 th Street at S Washington St.	NE, NW, SE	Remove existing WCR, Install Type 2A WCR at NW, SE, & NE Corner
14 th Street at Forbes St.	NW, NE	Remove existing Sidewalk and WCR. Add extra Sidewalk around NW corner to make compliant WCR access to cross Forbes. Install Type 2A at NE corner.
14 th Street at Cotanche St.	NW, SW	Remove existing WCR, Install Type 2A at NW and SW Corner.

BID FORM

BF-9

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BID FORM

BF-10

FORM OF BID BOND

KNOW ALL MEN BY THESE PRESENTS THAT _____ as principal, and Fidelity and Deposit Company of Maryland _____, as surety, who is duly licensed to act as surety in North Carolina, are held and firmly bound unto _____ as obligee, in the penal sum of Five Percent of Amount Bid _____ 5% _____ DOLLARS, lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Signed, sealed and dated this 10th day of April, 2019

WHEREAS, the said principal is herewith submitting proposal for Greenville 2019 Street Resurfacing and the principal desires to file this bid bond in lieu of making the cash deposit as required by G.S. 143-129.

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION is such, that if the principal shall be awarded the contract for which the bid is submitted and shall execute the contract and give bond for the faithful performance thereof within ten days after the award of same to the principal, then this obligation shall be null and void; but if the principal fails to so execute such contract and give performance bond as required by G.S. 143-129, the surety shall, upon demand, forthwith pay to the obligee the amount set forth in the first paragraph hereof. Provided further, that the bid may be withdrawn as provided by G.S. 143-129.1

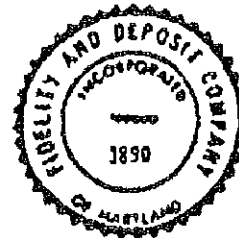
S. T. Wooten Corporation _____ (SEAL)

By: [Signature] (SEAL)
Henry D Butts Jr. VP

_____ (SEAL)

Fidelity and Deposit Company of Maryland _____ (SEAL)

By: [Signature] (SEAL)
Debra S. Ritter, Attorney-in-Fact



FORM OF BID BOND

Bond Number Bid Bond

Obligee City of Greenville

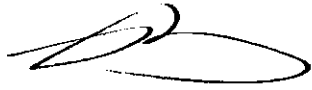
**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Illinois, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Illinois (herein collectively called the "Companies"), by **Robert D. Murray, Vice President**, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint Debra S. Ritter, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York, the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland, and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland, in their own proper persons.

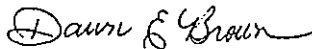
The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 24th day of January, A.D. 2019.

ATTEST:
ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND



By: *Robert D. Murray*
Vice President



By: *Dawn E. Brown*
Secretary

State of Maryland
County of Baltimore

On this 24th day of January, A.D. 2019, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **Robert D. Murray, Vice President and Dawn E. Brown, Secretary** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



Constance A. Dunn
Constance A. Dunn, Notary Public
My Commission Expires: July 9, 2019

EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 10th day of April, 2019.



Michael C. Fay, Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT A COMPLETE DESCRIPTION OF THE CLAIM INCLUDING THE PRINCIPAL ON THE BOND, THE BOND NUMBER, AND YOUR CONTACT INFORMATION TO:

Zurich Surety Claims
1299 Zurich Way
Schaumburg, IL 60196-1056
www.reportsfclaims@zurichna.com
800-626-4577

ATTACH TO BID

ATTACH TO BID

ATTACH TO BID

ATTACH TO BID

NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

State of (North Carolina)

County of (Wilson)

Henry D Butts Jr, being first duly sworn, deposes and says that:

- (1) He is Vice President of S. T. Wooten, 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 of 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 City of Greenville 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.

(Contractor Signature) [Signature]

(Title) Vice President

Subscribed and sworn to before me this 10th day of April, 2019.

Signature of Notary Public Jennie F Holland
Jennie F Holland

My commission expires February 12, 2023
Wilson Co., NC



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AGREEMENT

THIS AGREEMENT is dated as of the ____ day of _____ in the year **201** by and between the **City of Greenville, NC** (hereinafter called OWNER) and _____ (hereinafter called CONTRACTOR). OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

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

2019 Street Resurfacing Project

Article 2. ENGINEER.

The Project has been designed by the City of Greenville, Public Works Department, who is hereinafter called ENGINEER and who is to act as OWNER'S representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Once the Notice of Award has been issued, the OWNER may assume all or part of the responsibilities of the ENGINEER and RESIDENT PROJECT REPRESENTATIVE.

Article 3. CONTRACT TIMES.

3.1 The Work will be completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within the times specified below:

Total Contract Completion Time – 120 Calendar Days

The Contract Times shall commence to run as provided in paragraph 2.03 of the General Conditions.

3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and the OWNER will suffer financial loss if the Work is not completed within the times specified in the BID, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER INSERT AMOUNT Dollars (\$500) for each day that expires after the time specified in paragraph 3.1.

Article 4. CONTRACT PRICE.

OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 4.1 and 4.2 below:

4.1 For all Work other than Unit Price Work, a Lump Sum as shown in the BID.

All specific cash allowances are included in the BID and have been computed in accordance with paragraph 11.02 of the General Conditions.

plus

4.2 For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in the BID.

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by ENGINEER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03 of the General Conditions.

Article 5. PAYMENT PROCEDURES.

5.1 Applications for Payment by the CONTRACTOR, processing of same by the ENGINEER and OWNER, and associated retainage shall be as set forth in the Standard Special Provisions.

Article 6. INTEREST.

Pursuant to paragraph 143-134.1, General Statutes of North Carolina, the balance due prime Contractors shall be paid in full within 45 days after respective prime contracts have been accepted by Engineer and Owner, or occupied by Owner and used for the purpose for which the project was constructed, whichever occurs first. Provided, however, that whenever Engineer determines that delay in completion of the project in accordance with terms of the Drawings and Specifications is the fault of Contractor, the project may be occupied and used for the purposes for which it was constructed without payment of any interest on amounts withheld past the 45 day limit. No payment shall be delayed because of the failure of another prime Contractor on such project to complete his contract. Should final payment to any prime Contractor beyond the date such contracts have been declared to be completed by Engineer, accepted by Owner, or occupied by Owner and used for the purposes for which the project was constructed, be delayed by more than 45 days, said prime Contractor shall be paid interest, beginning on the 46th day, at the rate of twelve percent per annum on such unpaid balance as may be due. Where a conditional acceptance of a contract exists, and where Owner is retaining a reasonable sum pending correction of such conditions, interest on such reasonable sum shall not apply.

Article 7. CONTRACTOR'S REPRESENTATIONS.

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

7.1 CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in paragraph 8) and the other related data identified in the Bidding Documents including "technical data."

7.2 CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

7.3 CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.

7.4 CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions. CONTRACTOR accepts determination set forth in paragraph SC - 4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 4.02 of the General Conditions. CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

7.5 CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the site that relates to the Work as indicated in the Contract Documents.

7.6 CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

7.7 CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 8. CONTRACT DOCUMENTS.

The Contract Documents, which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work, consist of the following:

- 8.1 This Agreement.
- 8.2 Exhibits to this Agreement:
 - a. Certificate of Insurance.
- 8.3 Performance, Payment, and/or other Bonds.
- 8.4 Notice to Proceed.
- 8.5 General Conditions.

- 8.6 Supplementary Conditions.
- 8.7 Specifications bearing the title **2019 Street Resurfacing Project** and consisting of divisions as listed in table of contents thereof.
- 8.8 Drawings consisting of each sheet bearing the following general title: **2019 Street Resurfacing Project**.
- 8.9 Addenda numbers (_____) inclusive.
- 8.10 CONTRACTOR's Bid Form.
- 8.11 Minority/Women Business Enterprise documentation submitted by CONTRACTOR with the Bid Proposal (if applicable).
- 8.12 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 8.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 9. MISCELLANEOUS.

- 9.1. Terms used in this Agreement, which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.
- 9.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3. OWNER and CONTRACTOR each binds itself, their partner, successors, assigns and legal representatives to the other party hereto, their partner, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 9.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed, initialed or identified by OWNER and CONTRACTOR or identified by ENGINEER on their behalf.

This Agreement will be effective on the date provided on Page A-1 of this Agreement (which is the Effective Date of the Agreement).

CITY OF GREENVILLE

BY _____

BY _____

NAME _____

NAME _____

TITLE MAYOR

TITLE _____

(CORPORATE SEAL)

(CORPORATE SEAL)

Attest _____

Attest _____

TITLE CITY CLERK

TITLE _____

Address for giving notices

Address for giving notices

PO Box 7207

Greenville, NC 27835-7207

License No. _____

Employer Identification Number _____

APPROVED AS TO FORM

Emanuel D. McGirt, City Attorney

PRE AUDIT CERTIFICATION

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Byron Hayes, Financial Services Manager

Account Number(s)/Project String _____

Project Code (if applicable) _____

INTENTIONALLY LEFT BLANK

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, (Corporation, Partnership, or Individual) hereinafter called PRINCIPAL, and

(Name of Surety)

(Address of Surety)

hereinafter called SURETY, are held and firmly bound unto

City of Greenville Public Works Department
1500 Beatty Street
Greenville, NC 27834

hereinafter called OWNER, and unto all persons, firms, and corporations who or which may furnish labor, or who furnish materials to perform as described under the Contract and to their successors and assigns in the total aggregate penal sum of _____

_____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain contract with the OWNER, dated the _____ day of _____, 201____, a copy of which is hereto attached and made a part hereof for the construction of: City of Greenville,

2019 Street Resurfacing Project

NOW, THEREFORE, if the PRINCIPAL shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extensions or modification thereof, including all amounts due for materials,

lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK, and for all labor cost incurred in such WORK including that by a SUBCONTRACTOR, and to any mechanic or material man lien holder whether it acquired its lien by operation of State or Federal law; then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, that beneficiaries or claimants hereunder shall be limited to the SUBCONTRACTORS, and persons, firms, and corporations having a direct contract with the PRINCIPAL or its SUBCONTRACTORS.

PROVIDED, FURTHER, that the said SURETY for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed hereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on the BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no suit or action shall be commenced hereunder by any claimant; (a) Unless claimant, other than one having a direct contract with the PRINCIPAL, shall have given written notice to any two of the following: The PRINCIPAL, the OWNER, or the SURETY above named within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished or for whom the work or same by registered mail or certified mail, postage prepaid, in an envelope address to the PRINCIPAL, OWNER, or SURETY, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer. (b) After the expiration of one (1) year following the date of which PRINCIPAL ceased work on said CONTRACT, it being understood, however that if any limitation embodied in the BOND is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

PROVIDED, FURTHER, that it is expressly agreed that the BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the CONTRACT as so amended. The term "Amendment", wherever used in this BOND, and whether referring to this BOND of the Contract shall include any alteration addition, extension, or modification of any character whatsoever. PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in 3 counterparts, each one of which shall be deemed an original, this the ____ day of _____, 201__.

ATTEST:

Principal

(Principal Secretary)

BY _____ (s)

(Address)

(SEAL)

(Witness as to Principal)

(Address)

(Surety)

ATTEST:

(Witness as to Surety)

By _____
(Attorney-in-Fact)

(Address)

(Address)

NOTE: Date of BOND must not be prior to date of Contract.

If CONTRACTOR is partnership, all partners should execute BOND. 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.

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PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, (Corporation, Partnership, or Individual) hereinafter called PRINCIPAL, and

(Name of Surety)

(Address of Surety)

hereinafter called SURETY, are held and firmly bound unto

City of Greenville Public Works Department
1500 Beatty Street
Greenville, NC 27834

hereinafter called OWNER, in the total aggregate penal sum of _____

_____ Dollars (\$ _____) in
lawful money of the United States, for the payment of which sum well and truly to be made, we bind
ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by
these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain
contract with the OWNER, dated the _____ day of _____, 201____,
a copy of which is hereto attached and made a part hereof for the construction of:

2019 Street Resurfacing Project

NOW, THEREFORE, if the PRINCIPAL shall well, truly and faithfully perform its duties, all the
undertakings, covenants, terms, conditions, and agreements of said contract during the original term
thereof, and any extensions thereof which may be granted by the OWNER, with or without notice to the
SURETY and during the one year guaranty period and if the PRINCIPAL shall satisfy all claims and
demands incurred under such contract, and shall fully indemnify and save harmless the OWNER from all
costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the
OWNER all outlay and expense which the OWNER may incur in making good any default, then this
obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said surety, for value received hereby stipulates and agrees that no
change, extension of time, alteration or addition to the terms of the contract or to WORK to be performed
there under or the SPECIFICATIONS accompanying same shall in any way affect its obligation on this
BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to
the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that it is expressly agreed that the BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the CONTRACT as so amended. The term "Amendment", wherever used in this BOND, and whether referring to this BOND of the Contract shall include any alteration addition, extension, or modification of any character whatsoever. PROVIDED, FURTHER, that no final settlement between the OWNER and the PRINCIPAL shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied. The OWNER is the only beneficiary hereunder.

IN WITNESS WHEREOF, this instrument is executed in _____ (Number) counterparts, each one of which shall be deemed an original, this the _____ day of _____, 201__.

ATTEST:
Principal

(Principal Secretary)

By _____ (s)

(Address)
(SEAL)

(Witness as to Principal)

(Address)

(Surety)

ATTEST:

(Witness as to Surety)

By _____
(Attorney-in-Fact)

(Address)

(Address)

NOTE: Date of BOND must not be prior to date of Contract.
If CONTRACTOR is partnership, all partners should execute BOND. 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.

CERTIFICATE OF INSURANCE

(SUBSTITUTE CERTIFICATE OF INSURANCE HERE)

Certificate of Insurance

CI-1

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Certificate of Insurance

CI-2

NOTICE OF INTENT TO AWARD

TO:

PROJECT: **2019 Street Resurfacing Project**

You are hereby notified the City of Greenville has received your Bid _____ for the above described project on _____ and determined you are the apparent low bidder. City Council will consider your bid for award on _____.

You are required to execute the contract and to furnish the required Contractor's Performance Bond, Payment Bond, and Certificate of Insurance within ten (10) calendar days from the date of this Notice to you.

If you fail to execute said contract and to furnish any required Bonds and Certificates within ten (10) days from delivery of the contract, the City of Greenville will be entitled to consider all your rights arising out of their acceptance of your Bid as abandoned and to award the work covered by the contract to another contractor, to re-advertise the Project, or otherwise dispose thereof as the City of Greenville sees fit.

You are required to acknowledge and return to the Owner a copy of this Notice of Intent to Award.

Dated this _____ day of _____, 201_____.

Owner: City of Greenville

BY: _____
Scott P. M. Godefroy, PE
City Engineer

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF INTENT TO AWARD is hereby acknowledged:

By: _____ Signature: _____
(Print name)

Title: _____ Company: _____

This the _____ day of _____, 201_____.

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NOTICE TO PROCEED

DATE:

TO:

PROJECT: 2019 Street Resurfacing Project

Attached, please find a fully executed copy of the AGREEMENT dated You are hereby notified to commence WORK in accordance with the AGREEMENT on or before....., 201__ and you are to complete the WORK within 120 consecutive calendar days thereafter.

The date of COMPLETION of all WORK is.....

Pre-Construction Conference conducted on

Owner: City of Greenville

BY:

Scott P. M. Godefroy, PE
City Engineer

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by

this the _____ day of _____, 201__.

By _____

Signature _____

Title _____

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Notice to Proceed

NP-2

**City of Greenville/Greenville Utilities Commission
Minority and Women Business Enterprise (MWBE) Program**

**City of Greenville
Construction Guidelines and Affidavits
\$100,000 and above**

These instructions shall be included with each bid solicitation.

MBForms 2002-
Revised July 2010 - Updated 2015

City of Greenville/Greenville Utilities Commission Minority and Women Business Enterprise Program

\$100,000 and Construction Guidelines for MWBE Participants

Policy Statement

It is the policy of the City of Greenville and Greenville Utilities Commission to provide minorities and women equal opportunity for participating in all aspects of the City’s and Utilities’ contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchases, and professional and personal service contracts.

Goals and Good Faith Efforts

Bidders responding to this solicitation shall comply with the MWBE program by making Good Faith Efforts to achieve the following aspiration goals for participation.

	CITY	
	MBE	WBE
Construction This goal includes Construction Manager at Risk.	10%	6%

Bidders shall submit MWBE information with their bids on the forms provided. This information will be subject to verification by the City prior to contract award. **As of July 1, 2009, contractors, subcontractors, suppliers, service providers, or MWBE members of joint ventures intended to satisfy City MWBE goals shall be certified by the NC Office of Historically Underutilized Businesses (NC HUB) only.** Firms qualifying as “WBE” for City’s goals must be designated as a “women-owned business” by the HUB Office. Firms qualifying as “MBE” for the City’s goals must be certified in one of the other categories (i.e.: Black, Hispanic, Asian American, American Indian, Disabled, or Socially and Economically Disadvantaged). Those firms who are certified as both a “WBE” and “MBE” may only satisfy the “MBE” requirement. **Each goal must be met separately. Exceeding one goal does not satisfy requirements for the other.** A complete database of NC HUB certified firms may be found at <http://www.doa.nc.gov/hub/>. An internal database of firms who have expressed interest to do business with the City and GUC is available at www.greenvillenc.gov. However, the HUB status of these firms must be verified by the HUB database. The City shall accept NCDOT certified firms on federally funded projects only. Please note: A contractor may utilize any firm desired. However, for participation purposes, all MWBE vendors who wish to do business as a minority or female must be certified by NC HUB.

The Bidder shall make good faith efforts to encourage participation of MWBEs prior to submission of bids in order to be considered as a responsive bidder. Bidders are cautioned that even though their submittal indicates they will meet the MWBE goal, they should document their good faith efforts and be prepared to submit this information, if requested.

The MWBE’s listed by the Contractor on the **Identification of Minority/Women Business Participation** which are determined by the City to be certified shall perform the work and supply the materials for which they are listed unless the Contractors receive prior authorization from the City to perform the work with other forces or to obtain materials from other sources. If a contractor is proposing to perform all elements of the work with his own forces, he must be prepared to document evidence satisfactory to the owner of similar government contracts where he has self-performed.

Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid
The Contractor shall enter into and supply copies of fully executed subcontracts with each MWBE or supply signed Letter(s) of Intent to the Project Manager after award of contract and prior to Notice to Proceed. Any amendments to subcontracts shall be submitted to the Project Manager prior to execution.

Instructions

The Bidder shall provide with the bid the following documentation:

Identification of Minority/Women Business Participation
(if participation is zero, please mark zero—Blank forms will be considered nonresponsive)

Affidavit A (if subcontracting)

OR

Identification of Minority/Women Business Participation
(if participation is zero, please mark zero—Blank forms will be considered nonresponsive)

Affidavit B (if self-performing; must attest that bidder does not customarily subcontract work on this type of project—includes supplies and materials)

Within 72 hours or 3 business days after notification of being the apparent low bidder who is subcontracting anything must provide the following information:

Affidavit C (if aspirational goals are met or are exceeded)

OR

Affidavit D (if aspirational goals are not met)

After award of contract and prior to issuance of notice to proceed:

Letter(s) of Intent or Executed Contracts

****With each pay request, the prime contractors will submit the Proof of Payment Certification, listing payments made to MWBE subcontractors.**

*****If a change is needed in MWBE Participation, submit a Request to Change MWBE Participation Form. Good Faith Efforts to substitute with another MWBE contractor must be demonstrated.**

Minimum Compliance Requirements:

All written statements, affidavits, or intentions made by the Bidder shall become a part of the agreement between the Contractor and the City for performance of contracts. Failure to comply with any of these statements, affidavits or intentions or with the minority business guidelines shall constitute a breach of the contract. A finding by the City that any information submitted (either prior to award of the contract or during the performance of the contract) is inaccurate, false, or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the City whether to terminate the contract for breach or not. In determining whether a contractor has made Good Faith Efforts, the CITY will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, intensity, and results of these efforts.

MBForms 2002-
Revised July 2010 - Updated 2015

Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid
Identification of Minority/Women Business Participation

I, S.T. WOOTEN CORP.
 (Name of Bidder)

do hereby certify that on this project, we will use the following minority/women business enterprises as construction subcontractors, vendors, suppliers or providers of professional services.

Firm Name, Address and Phone #	Work type	*MWBE Category
JEN HAULING LLC 919-604-7694 SMITHFIELD, NC 27577	HAULING	B MBE
ROYALS CONTRACTING INC 919-847-3881 RALEIGH, NC	ASPHALT PATCHING	F WBE

*MWBE categories: Black, African American (B), Hispanic, Latino (L), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (S) Disabled (D)

If you will not be utilizing MWBE contractors, please certify by entering zero "0"

The total value of MBE business contracting will be (\$) 10,000 .

The total value of WBE business contracting will be (\$) 233,521 .

City of Greenville AFFIDAVIT A – Listing of Good Faith Efforts

County of Wilson

(Name of Bidder)

Affidavit of S. T. Wooten

I have made a good faith effort to comply under the following areas checked:

Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 I.0101)

- 1 – (10 pts)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- 2 --(10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- 3 – (15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- 4 – (10 pts)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- 5 – (10 pts)** Attended prebid meetings scheduled by the public owner.
- 6 – (20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- 7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- 8 – (25 pts)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- 9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- 10 - (20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority/Women Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority/women business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: 4-10-19 Name of Authorized Officer: Herb D Butts Jr
 Signature: [Signature]
 Title: Vice President



MBForms 2002-
Revised July 2010 - Updated 2015

State of North Carolina, County of Wilson
 Subscribed and sworn to before me this 10th day of April 2019
 Notary Public Jennie F Holland Jennie F Holland
 My commission expires February 12, 2023

**City of Greenville --AFFIDAVIT B-- Intent to Perform
Contract with Own Workforce.**

County of _____

Affidavit of _____

(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____

_____ contract.

(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

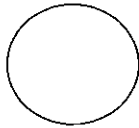
The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____

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

Notary Public _____

My commission expires _____

City of Greenville - AFFIDAVIT C - Portion of the Work to be Performed by MWBE Firms

County of _____

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the portion of the work to be executed by MWBE businesses as defined in GS143-128.2(g) and the COG/CITY MWBE Plan sec. III is equal to or greater than 16% of the bidders total contract price, then the bidder must complete this affidavit. This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being low bidder.

Affidavit of _____ I do hereby certify that on the _____
(Name of Bidder)

Project ID# _____ Amount of Bid \$ _____
(Project Name)

I will expend a minimum of _____ % of the total dollar amount of the contract with minority business enterprises and a minimum of _____ % of the total dollar amount of the contract with women business enterprises. Minority/women businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. Attach additional sheets if required

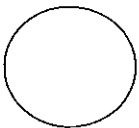
Name and Phone Number	*MWBE Category	Work description	Dollar Value

*Minority categories: Black, African American (B), Hispanic or Latino (L), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (S) Disabled (D)

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with MWBE Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____



Signature: _____

Title: _____

State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____

City of Greenville **AFFIDAVIT D – Good Faith Efforts**

County of _____

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

Page | 8

If the goal of 16% participation by minority/women business **is not** achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts:

Affidavit of _____ I do hereby certify
that on the _____
(Name of Bidder)

Project ID# _____ (Project Name) Amount of Bid \$ _____

I will expend a minimum of _____% of the total dollar amount of the contract with minority business enterprises and a minimum of _____ % of the total dollar amount of the contract with women business enterprises. Minority/women businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. (Attach additional sheets if required)

Name and Phone Number	*MWBE Category	Work description	Dollar Value

*Minority categories: Black, African American (**B**), Hispanic or Latino (**L**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**S**) Disabled (**D**)

Examples of documentation required to demonstrate the Bidder's good faith efforts to meet the goals set forth in these provisions include, but are not necessarily limited to, the following:

- A. Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster.
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder.

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with MWBE Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

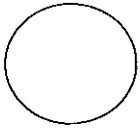
Page | 9

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____

**Good Faith Effort
MWBE Requirements**

2019 Street Resurfacing Project

The MWBE Office reviewed the bid documentation submitted by apparent low bidder, S.T. Wooten, for award of the 2019 Street Resurfacing Project.

Total Project Cost: \$2,574,890.15

MWBE participation for this project:

Firm	Status	Contract Amt	%
J & N Hauling	B	\$10000	.38
Royals Contracting Inc.	WBE	\$233,501	11.03
Total MBE			.38%
Goal			10.0%
Total WBE			11.03%
Goal			6.0%

*Percentages are based on base bid at time of bid

Good Faith Effort Evaluation:

According to Affidavit A submitted at time of bid, the above contractor submitted affirmation of 60 out of 155 possible points, meeting the minimum number of points (50) required to demonstrate good faith. The above contractor did not reach the MWBE participation goals as set by the City of Greenville in its MWBE Plan (Section IV, Part B). As a result, Affidavit D was submitted.

Following review of the documentation, the above contractor has met the Good Faith Effort standard as provided below.

- 1 – (10 pts)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.

Yes, contacted firms within 10 days as noted in the bid documents.

- 2 -- (10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.

Yes

- 3 – (15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.

Yes – looked at firms to provide specialties for service of bid.

- 4 – (10 pts)** Works with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.

Not applicable

- 5 – (10 pts)** Attended pre-bid meetings scheduled by the public owner.

Yes

- 6 – (20 pts)** Provides assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.

Not applicable

- 7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.

Yes

- 8 – (25 pts)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.

Not applicable

- 9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.

Not applicable

- 10 - (20 pts)** Provides quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

Not applicable

LETTER OF INTENT MWBE Subcontractor Performance

Page | 10

Please submit this form or executed subcontracts with MWBE firms after award of contract and prior to issuance of notice to proceed.

PROJECT: _____
(Project Name)

TO: _____
(Name of Prime Bidder/Architect)

The undersigned intends to perform work in connection with the above project as a:

____ Minority Business Enterprise _____ Women Business Enterprise

The MWBE status of the undersigned is certified the NC Office of Historically Underutilized Businesses (required). ___ Yes ___ No

The undersigned is prepared to perform the following described work or provide materials or services in connection with the above project at the following dollar amount:

Work/Materials/Service Provided	Dollar Amount of Contract	Projected Start Date	Projected End Date

(Date)

(Address)

(Name & Phone No. of MWBE Firm)

(Name & Title of Authorized Representative of MWBE)

(Signature of Authorized Representative of MWBE)

REQUEST TO CHANGE MWBE PARTICIPATION

(Submit changes only if notified as apparent lowest bidder, continuing through project completion)

Page | 11

Project: _____

Bidder or Prime Contractor: _____

Name & Title of Authorized Representative: _____

Address: _____ **Phone #:** _____

_____ **Email Address:** _____

Total Contract Amount (including approved change orders or amendments): \$ _____

Name of subcontractor: _____

Good or service provided: _____

Proposed Action:

Replace subcontractor

Perform work with own forces

For the above actions, you must provide one of the following reasons (Please check applicable reason):

The listed MBE/WBE, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract.

The listed MBE/WBE is bankrupt or insolvent.

The listed MBE/WBE fails or refuses to perform his/her subcontract or furnish the listed materials.

The work performed by the listed subcontractor is unsatisfactory according to industry standards and is not in accordance with the plans and specifications; or the subcontractor is substantially delaying or disrupting the progress of the work.

If replacing subcontractor:

Name of replacement subcontractor: _____

The MWBE status of the contractor is certified by the NC Office of Historically Underutilized
Businesses (required). Yes No

Dollar amount of original contract \$ _____

Dollar amount of amended contract \$ _____

Other Proposed Action:

Increase total dollar amount of work
 Decrease total dollar amount of work

Add additional subcontractor
 Other

Please describe reason for requested action: _____

If adding additional subcontractor:*

The MWBE status of the contractor is certified by the NC Office of Historically Underutilized
Businesses (required). Yes No

**Please attach Letter of Intent or executed contract document*

Dollar amount of original contract \$ _____

Dollar amount of amended contract \$ _____

**Interoffice Use
Only:
Approval __Y**

Pay

Proof of Payment Certification

MWBE Contractors, Suppliers, Service Providers

Project Name: _____

Prime Contractor: _____

Current Contract Amount (including change orders): \$ _____

Requested Payment Amount for this Period: \$ _____

Is this the final payment? ___ Yes ___ No

Firm Name	MWBE Category*	Total Amount Paid from this Pay Request	Total Contract Amount (including changes)	Total Amount Remaining

*Minority categories: Black, African American (B), Hispanic or Latino (L), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (S) Disabled (D)

Date: _____

Certified By: _____
Name

Title

Signature

INTENTIONALLY LEFT BLANK

TAX STATEMENT AND CERTIFICATION

This is to certify that the foregoing or attached statements are a true and complete statement of all State and County Sales or Use Tax paid by the undersigned contractor from _____, 20__, to _____, 20__, inclusive for the materials and equipment that were or will become a part of the construction of the **2019 Street Resurfacing Project**.

(THE FOLLOWING PORTION TO BE FILLED OUT BY GENERAL CONTRACTOR ONLY.)

It is further certified that _____

Are all of the subcontractors that are, or were engaged by the contractor in the performance of this contract and whose tax statements are also enclosed herewith.

CONTRACTOR OR SUBCONTRACTOR

Sworn and subscribed before me

This ____ day of _____, 20__

NOTARY PUBLIC

My Commission Expires: _____

INTENTIONALLY LEFT BLANK

Page |
2

**CONTRACTOR'S AFFIDAVIT
RELEASE OF LIEN AND WAIVER OF CLAIM**

STATE OF: _____ COUNTY OF: _____

Page | 1

_____, _____
(Name) (Title)

_____, being first duly sworn deposes and says that:
(Contractor)

1. The undersigned is authorized to execute this Affidavit, Release of Lien and Waiver of Claim on behalf of the Contractor and has personal knowledge of all facts set forth herein;
2. This Affidavit, Release of Lien and Waiver of Claim is made concerning the construction of the following project:

Project Name: **2019 Street Resurfacing Project**

Project No.: _____
3. All payrolls, material bills, sales tax, social security tax, state and federal unemployment insurance, and all other liabilities and taxes owed by the Contractor and arising in any manner from the above-described project have been paid in full;
4. No liens or claims exists in favor of any supplier of materials or labor or in favor of any subcontractor furnishing materials or labor on the above-described project;
5. Notwithstanding the foregoing, if the City of Greenville or property of the City of Greenville is subject to any claim or lien which arises in any manner from the failure of the Contractor to pay any liability described above, the Contractor will indemnify and hold the City of Greenville harmless for any amount which the City of Greenville is required to pay to discharge such lien or settle such claim and further will pay the City of Greenville's expenses, costs, and attorney fees incurred in connection therewith;
6. All claims, suits, and proceedings of every name, description, or nature arising out of the above project against the City of Greenville, its officers, employees and agents have been settled;
7. The Contractor releases and waives any and all claims of every type and description, which the Contractor may have against the City of Greenville arising in any manner from the construction of the above-described project.

(Contractors Signature)

Sworn to and subscribed before me _____ this the ____ day of _____, 201__.

(Title)

(Date)

Notary Public

My Commission Expires _____ (Date)

INTENTIONALLY LEFT BLANK

GENERAL CONDITIONS

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

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
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Endorsed by



CONSTRUCTION SPECIFICATIONS INSTITUTE

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

Page | 4

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

TABLE OF CONTENTS

		Page
ARTICLE 1 – DEFINITIONS AND TERMINOLOGY.....		1
1.01	DEFINED TERMS.....	1
1.02	TERMINOLOGY.....	5
ARTICLE 2 – PRELIMINARY MATTERS.....		6
2.01	DELIVERY OF BONDS AND EVIDENCE OF INSURANCE.....	6
2.02	COPIES OF DOCUMENTS.....	6
2.03	COMMENCEMENT OF CONTRACT TIMES; NOTICE TO PROCEED.....	6
2.04	STARTING THE WORK.....	7
2.05	BEFORE STARTING CONSTRUCTION.....	7
2.06	PRECONSTRUCTION CONFERENCE; DESIGNATION OF AUTHORIZED REPRESENTATIVES.....	7
2.07	INITIAL ACCEPTANCE OF SCHEDULES.....	7
ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE.....		8
3.01	INTENT.....	8
3.02	REFERENCE STANDARDS.....	8
3.03	REPORTING AND RESOLVING DISCREPANCIES.....	9
3.04	AMENDING AND SUPPLEMENTING CONTRACT DOCUMENTS.....	9
3.05	REUSE OF DOCUMENTS.....	10
3.06	ELECTRONIC DATA.....	10
ARTICLE 4 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS.....		11
4.01	AVAILABILITY OF LANDS.....	11
4.02	SUBSURFACE AND PHYSICAL CONDITIONS.....	11
4.03	DIFFERING SUBSURFACE OR PHYSICAL CONDITIONS.....	12
4.04	UNDERGROUND FACILITIES.....	13
4.05	REFERENCE POINTS.....	14
4.06	HAZARDOUS ENVIRONMENTAL CONDITION AT SITE.....	14
ARTICLE 5 – BONDS AND INSURANCE.....		16
5.01	PERFORMANCE, PAYMENT, AND OTHER BONDS.....	16
5.02	LICENSED SURETIES AND INSURERS.....	16
5.03	CERTIFICATES OF INSURANCE.....	17
5.04	CONTRACTOR’S INSURANCE.....	17
5.05	OWNER’S LIABILITY INSURANCE.....	19
5.06	PROPERTY INSURANCE.....	19
5.07	WAIVER OF RIGHTS.....	20
5.08	RECEIPT AND APPLICATION OF INSURANCE PROCEEDS.....	21
5.09	ACCEPTANCE OF BONDS AND INSURANCE; OPTION TO REPLACE.....	21
5.10	PARTIAL UTILIZATION, ACKNOWLEDGMENT OF PROPERTY INSURER.....	22
ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES.....		22
6.01	SUPERVISION AND SUPERINTENDENCE.....	22
6.02	LABOR; WORKING HOURS.....	22
6.03	SERVICES, MATERIALS, AND EQUIPMENT.....	22

6.04	PROGRESS SCHEDULE.....	23
6.05	SUBSTITUTES AND "OR-EQUALS".....	23
6.06	CONCERNING SUBCONTRACTORS, SUPPLIERS, AND OTHERS.....	25
6.07	PATENT FEES AND ROYALTIES.....	27
6.08	PERMITS.....	27
6.09	LAWS AND REGULATIONS.....	28
6.10	TAXES.....	28
6.11	USE OF SITE AND OTHER AREAS.....	28
6.12	RECORD DOCUMENTS.....	29
6.13	SAFETY AND PROTECTION.....	29
6.14	SAFETY REPRESENTATIVE.....	30
6.15	HAZARD COMMUNICATION PROGRAMS.....	30
6.16	EMERGENCIES.....	30
6.17	SHOP DRAWINGS AND SAMPLES.....	31
6.18	CONTINUING THE WORK.....	32
6.19	CONTRACTOR'S GENERAL WARRANTY AND GUARANTEE.....	33
6.20	INDEMNIFICATION.....	33
6.21	DELEGATION OF PROFESSIONAL DESIGN SERVICES.....	34
ARTICLE 7 – OTHER WORK AT THE SITE.....		35
7.01	RELATED WORK AT SITE.....	35
7.02	COORDINATION.....	35
7.03	LEGAL RELATIONSHIPS.....	36
ARTICLE 8 – OWNER'S RESPONSIBILITIES.....		36
8.01	COMMUNICATIONS TO CONTRACTOR.....	36
8.02	REPLACEMENT OF ENGINEER.....	36
8.03	FURNISH DATA.....	36
8.04	PAY WHEN DUE.....	36
8.05	LANDS AND EASEMENTS; REPORTS AND TESTS.....	36
8.06	INSURANCE.....	36
8.07	CHANGE ORDERS.....	37
8.08	INSPECTIONS, TESTS, AND APPROVALS.....	37
8.09	LIMITATIONS ON OWNER'S RESPONSIBILITIES.....	37
8.10	UNDISCLOSED HAZARDOUS ENVIRONMENTAL CONDITION.....	37
8.11	EVIDENCE OF FINANCIAL ARRANGEMENTS.....	37
8.12	COMPLIANCE WITH SAFETY PROGRAM.....	37
ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION.....		37
9.01	OWNER'S REPRESENTATIVE.....	37
9.02	VISITS TO SITE.....	37
9.03	PROJECT REPRESENTATIVE.....	38
9.04	AUTHORIZED VARIATIONS IN WORK.....	38
9.05	REJECTING DEFECTIVE WORK.....	38
9.06	SHOP DRAWINGS, CHANGE ORDERS AND PAYMENTS.....	39
9.07	DETERMINATIONS FOR UNIT PRICE WORK.....	39
9.08	DECISIONS ON REQUIREMENTS OF CONTRACT DOCUMENTS AND ACCEPTABILITY OF WORK.....	39
9.09	LIMITATIONS ON ENGINEER'S AUTHORITY AND RESPONSIBILITIES.....	39
9.10	COMPLIANCE WITH SAFETY PROGRAM.....	40
ARTICLE 10 – CHANGES IN THE WORK; CLAIMS.....		40
10.01	AUTHORIZED CHANGES IN THE WORK.....	40
10.02	UNAUTHORIZED CHANGES IN THE WORK.....	41
10.03	EXECUTION OF CHANGE ORDERS.....	41
10.04	NOTIFICATION TO SURETY.....	41
10.05	CLAIMS.....	41

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK.....	42
11.01 COST OF THE WORK.....	42
11.02 ALLOWANCES.....	45
11.03 UNIT PRICE WORK.....	45
ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES.....	46
12.01 CHANGE OF CONTRACT PRICE.....	46
12.02 CHANGE OF CONTRACT TIMES.....	47
12.03 DELAYS.....	47
ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK.....	48
13.01 NOTICE OF DEFECTS.....	48
13.02 ACCESS TO WORK.....	48
13.03 TESTS AND INSPECTIONS.....	49
13.04 UNCOVERING WORK.....	49
13.05 OWNER MAY STOP THE WORK.....	50
13.06 CORRECTION OR REMOVAL OF DEFECTIVE WORK.....	50
13.07 CORRECTION PERIOD.....	50
13.08 ACCEPTANCE OF DEFECTIVE WORK.....	51
13.09 OWNER MAY CORRECT DEFECTIVE WORK.....	52
ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION.....	52
14.01 SCHEDULE OF VALUES.....	52
14.02 PROGRESS PAYMENTS.....	52
14.03 CONTRACTOR’S WARRANTY OF TITLE.....	55
14.04 SUBSTANTIAL COMPLETION.....	55
14.05 PARTIAL UTILIZATION.....	56
14.06 FINAL INSPECTION.....	57
14.07 FINAL PAYMENT.....	57
14.08 FINAL COMPLETION DELAYED.....	58
14.09 WAIVER OF CLAIMS.....	58
ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION.....	59
15.01 OWNER MAY SUSPEND WORK.....	59
15.02 OWNER MAY TERMINATE FOR CAUSE.....	59
15.03 OWNER MAY TERMINATE FOR CONVENIENCE.....	60
15.04 CONTRACTOR MAY STOP WORK OR TERMINATE.....	60
ARTICLE 16 – DISPUTE RESOLUTION.....	61
16.01 METHODS AND PROCEDURES.....	61
ARTICLE 17 – MISCELLANEOUS.....	61
17.01 GIVING NOTICE.....	61
17.02 COMPUTATION OF TIMES.....	62
17.03 CUMULATIVE REMEDIES.....	62
17.04 SURVIVAL OF OBLIGATIONS.....	62
17.05 CONTROLLING LAW.....	62
17.06 HEADINGS.....	62

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 5. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 6. *Bidder*—The individual or entity who submits a Bid directly to Owner.
 7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
 8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.
 9. *Change Order*—A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.
 10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
 11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).
14. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.
16. *Cost of the Work*—See Paragraph 11.01 for definition.
17. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
18. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
19. *Engineer*—The individual or entity named as such in the Agreement.
20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
21. *General Requirements*—Sections of Division 1 of the Specifications.
22. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
23. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
24. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
25. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
26. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.
28. *Notice to Proceed*—A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.
29. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.
30. *PCBs*—Polychlorinated biphenyls.
31. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
32. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
33. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
34. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
35. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
36. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.
37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.
39. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
41. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
42. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
43. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
44. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.
46. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
47. *Supplier*—A manufacturer, fabricator, supplier, distributor, material man, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
48. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
49. *Unit Price Work*—Work to be paid for on the basis of unit prices.
50. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
51. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an

addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 Terminology

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

B. *Intent of Certain Terms or Adjectives:*

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

C. *Day:*

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

D. *Defective:*

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

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

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.

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

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

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

2.02 *Copies of Documents*

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

2.03 *Commencement of Contract Times; Notice to Proceed*

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

2.04 *Starting the Work*

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

2.05 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.06 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.07 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on

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

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.
- C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

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

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.
2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

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

3.04 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. A Field Order;
2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or
3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

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

3.06 *Electronic Data*

- A. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.
- C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

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

4.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefore as provided in Paragraph 10.05.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and
 - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

- A. *Notice:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:
1. is of such a nature as to establish that any “technical data” on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or
 2. is of such a nature as to require a change in the Contract Documents; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

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

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

C. *Possible Price and Times Adjustments:*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor’s cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
 - a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or
 - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and

contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

- c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefore as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

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

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and
2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all such information and data;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents;
 - c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and
 - d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated:*

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

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

2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefore as provided in Paragraph I0.05.

4.05 *Reference Points*

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

4.06 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.
- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefore as provided in Paragraph 10.05.
- F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefore as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.
- G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

- H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.
- B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.
- C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverage's so required. Such surety and insurance companies shall also

meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

- A. Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.
- B. Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.
- C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.
- E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance*

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
 - 2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
 - 3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
 - 4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

- a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
 - b. by any other person for any other reason;
5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting there from; 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.
- B. The policies of insurance required by this Paragraph 5.04 shall:
1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insured's (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insured's, and include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insured's, and the insurance afforded to these additional insured's shall provide primary coverage for all claims covered thereby;
 2. include at least the specific coverage's and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
 3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;
 4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);
 5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
 6. include completed operations coverage:
 - a. Such insurance shall remain in effect for two years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

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

5.06 *Property Insurance*

- A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;
 2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.
 3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
 4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
 5. allow for partial utilization of the Work by Owner;
 6. include testing and startup; and
 7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.
- B. Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors,

members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.

- C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.
- D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.
- E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under this Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.07 *Waiver of Rights*

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

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

- A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.
- B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

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

- A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's

interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

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

ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

6.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner’s written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *Services, Materials, and Equipment*

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

- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.
 - 1. "*Or-Equal*" Items: If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

- 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and
 - 3) it has a proven record of performance and availability of responsive service.
- b. Contractor certifies that, if approved and incorporated into the Work:
- 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

- a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.
- b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefore. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.
- c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.
- d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - 1) shall certify that the proposed substitute item will:
 - a) perform adequately the functions and achieve the results called for by the general design,
 - b) be similar in substance to that specified, and
 - c) be suited to the same use as that specified;
 - 2) will state:
 - a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,
 - b) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

- c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;
 - 3) will identify:
 - a) all variations of the proposed substitute item from that specified, and
 - b) available engineering, sales, maintenance, repair, and replacement services; and
 - 4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.
- B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.
- C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.
- D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- E. *Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- F. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

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

required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

- B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.
- C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner,

Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insured's or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

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

6.08 *Permits*

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

6.09 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefore as provided in Paragraph 10.05.

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought

by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

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

6.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and

shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

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

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is

required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

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

1. *Shop Drawings:*

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

2. *Samples:*

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

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

C. *Submittal Procedures:*

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

- a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
- b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
- c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
- d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.
3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. Engineer's Review:

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. Resubmittal Procedures:

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

6.18 *Continuing the Work*

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

6.19 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;
 6. any inspection, test, or approval by others; or
 7. any correction of defective Work by Owner.

6.20 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting there from but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.

- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

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

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefore, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
1. written notice thereof will be given to Contractor prior to starting any such other work; and
 2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefore as provided in Paragraph 10.05.
- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.
- C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:
1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
 2. the specific matters to be covered by such authority and responsibility will be itemized; and
 3. the extent of such authority and responsibilities will be provided.

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

7.03 *Legal Relationships*

- A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.
- B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.
- C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of Engineer*

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

8.03 *Furnish Data*

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

8.04 *Pay When Due*

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

8.05 *Lands and Easements; Reports and Tests*

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

8.06 *Insurance*

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

8.07 *Change Orders*

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

8.08 *Inspections, Tests, and Approvals*

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

8.09 *Limitations on Owner's Responsibilities*

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

8.10 *Undisclosed Hazardous Environmental Condition*

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

8.11 *Evidence of Financial Arrangements*

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

8.12 *Compliance with Safety Program*

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

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

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

9.02 *Visits to Site*

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

continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

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

9.03 *Project Representative*

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

9.04 *Authorized Variations in Work*

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

9.05 *Rejecting Defective Work*

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

9.06 *Shop Drawings, Change Orders and Payments*

- A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.
- C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.
- D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

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

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

- A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work there under. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.
- B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.
- C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.
- D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not

exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

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

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefore as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

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

10.03 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:
1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;
 2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
 3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *Notification to Surety*

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

10.05 *Claims*

- A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.
- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data

shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).

- C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:
1. deny the Claim in whole or in part;
 2. approve the Claim; or
 3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.
- E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

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

11.01 *Cost of the Work*

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

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of

said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

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

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not

limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.
- C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.
- D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.02 Allowances

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

11.03 Unit Price Work

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

the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

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

12.01 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:
 - 1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
 - 2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
 - 3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

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

1. a mutually acceptable fixed fee; or
2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

- A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefore as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or

neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

- B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.
- D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.
- E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

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

13.01 Notice of Defects

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

13.02 Access to Work

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

13.03 *Tests and Inspections*

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
 - 1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
 - 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
 - 3. as otherwise specifically provided in the Contract Documents.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.
- E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

- A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.
- B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

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

13.05 *Owner May Stop the Work*

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

13.06 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).
- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

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

1. repair such defective land or areas; or
 2. correct such defective Work; or
 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting there from.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting there from) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

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

13.09 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.
- C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefore as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

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

14.02 *Progress Payments*

- A. Applications for Payments:

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. Review of Applications:

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

- a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
- a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
 - d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due:

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

D. *Reduction in Payment:*

1. Owner may refuse to make payment of the full amount recommended by Engineer because:
 - a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
 - b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - c. there are other items entitling Owner to a set-off against the amount recommended; or
 - d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.
2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.
3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.03 *Contractor's Warranty of Title*

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

14.04 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before

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

- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.
- E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

14.05 *Partial Utilization*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.
 - 2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

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

14.06 *Final Inspection*

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

14.07 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;
 - b. consent of the surety, if any, to final payment;
 - c. a list of all Claims against Owner that Contractor believes are unsettled; and
 - d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

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

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

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

C. Payment Becomes Due:

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

14.08 Final Completion Delayed

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

14.09 Waiver of Claims

- A. The making and acceptance of final payment will constitute:
 1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and
 2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

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

15.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will justify termination for cause:
1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
 2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
 3. Contractor's repeated disregard of the authority of Engineer; or
 4. Contractor's violation in any substantial way of any provisions of the Contract Documents.
- B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:
1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);
 2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and
 3. complete the Work as Owner may deem expedient.
- C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when

so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.
- F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
 - 3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and
 - 4. reasonable expenses directly attributable to termination.
- B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days

to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

ARTICLE 16 – DISPUTE RESOLUTION

16.01 Methods and Procedures

- A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.
- B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:
 - 1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or
 - 2. agrees with the other party to submit the Claim to another dispute resolution process; or
 - 3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

17.01 Giving Notice

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

1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or
2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

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

17.03 *Cumulative Remedies*

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

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

17.06 *Headings*

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

SUPPLEMENTARY GENERAL CONDITIONS

1. SUPPLEMENTARY GENERAL CONDITIONS

The following supplementary general conditions modify, change, delete from or add to the "Standard General Conditions of the Construction Contract", EJCDC Document C-700, Copyright 2007 Edition. Where any article of the general conditions is modified or any paragraph, subparagraph, or clause thereof is modified or deleted by these supplementary general conditions, the unaltered provisions of that article, paragraph, subparagraph, or clause shall remain in effect.

2. CONTRACTOR'S RESPONSIBILITIES

Except where the Contractor is an individual and gives his personal superintendence to the work, the Contractor shall provide a competent superintendent, satisfactory to the City of Greenville and the Engineer, on the work at all times during working hours with full authority to act for him. The Contractor shall also provide an adequate staff for the proper coordination and expediting of his work. The City of Greenville may require the Contractor to dismiss from the work such employee or employees as the City of Greenville or the Engineer may deem incompetent, careless, or insubordinate.

3. SUBCONTRACTS

The Contractor shall not execute an agreement with a Subcontractor or permit any Subcontractor to perform any work included in this Contract until he has submitted a non-collusion affidavit from the Subcontractor in substantially the form provided and has received written approval of such Subcontractor from the City of Greenville.

4. MUTUAL RESPONSIBILITY OF CONTRACTORS

If through acts or neglect on the part of the Contractor, any other Contractor or any Subcontractor shall suffer loss or damage on the work, the Contractor shall settle with such other Contractor or Subcontractor by agreement or arbitration, if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against the City of Greenville on account of any damage alleged to have been so sustained, the City of Greenville will notify the Contractor, who shall defend at his own expense any suit based upon such claim, and, if any judgment or claims against the City of Greenville shall be allowed, the Contractor shall pay or satisfy such judgment or claim and pay all costs and expenses in connection therewith.

5. PAYMENTS SUBJECT TO SUBMISSION OF CERTIFICATES

Each payment to the Contractor by the City of Greenville shall be made subject to submission by the Contractor of all written certificates required of him and his Subcontractors.

6. DELAYS AND LIQUIDATED DAMAGES

- a. Liquidated Damages for Delays: If the work is not completed within the time stipulated in Article 3.1 of the AGREEMENT thereof, including any extensions of time for excusable delays as herein provided, the Contractor shall pay to the City of Greenville liquidated damages for each calendar day of delay, until the work is completed, the amount as set forth in Article 3.2 of the AGREEMENT thereof and the Contractor and his sureties shall be liable to the City of Greenville for the amount thereof.

- b. The Contractor shall promptly notify the City of Greenville and Engineer within ten (10) days in writing of any probable cause of a delay. Upon receipt of such notification, the City of Greenville shall ascertain the facts and the cause and extent of delay. If upon the basis of the facts and the terms of this Contract the delay is properly excusable, the City of Greenville shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

7. REQUESTS FOR SUPPLEMENTARY INFORMATION

It shall be the responsibility of the Contractor to make timely requests of the City of Greenville for any additional information not already in his possession which should be furnished by the City of Greenville under the terms of this Contract, and which he will require in the planning and execution of the work. Such requests may be submitted from time to time as the need is approached, but each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing and list the various items and the latest date by which each will be required by the Contractor. The first list shall be submitted within two (2) weeks after Contract award and shall be as complete as possible at that time. The Contractor shall, if requested, furnish promptly any assistance and information the Engineer may require in responding to these requests of the Contractor. The Contractor shall be fully responsible for any delay in his work or to others arising from his failure to comply fully with the provisions of this section.

8. TEMPORARY FACILITIES AND CONTROLS

The Contractor shall provide and pay for all utilities, water, lights, power, and all temporary construction and facilities of every nature whatever necessary to execute, complete, and deliver the work.

The Contractor shall provide and maintain in a neat and sanitary condition such accommodations for the use of his employees as may be necessary to comply with the requirements and regulations of the Department of Health, or of the other bodies, or tribunals, having jurisdiction thereof. He shall commit no public nuisance.

The Contractor shall be limited to work with the right of way limits of the roadway.

The Contractor shall provide and be responsible for all barricades, warning lights, signs, signal and flagmen, and all else required to allow safe vehicular movement in the vicinity of construction operations.

The Contractor shall adhere to all applicable requirements of Part VI of the "Manual on Uniform Traffic Control Devices for Streets and Highways", published by the US Department of Transportation, Federal Highway Administration, latest edition, the "North Carolina Construction and Maintenance Operations Supplement" thereto, latest edition, prepared by the North Carolina Department of Transportation, and the "Work Zone Traffic Control Standards and Guidelines" published by the US Department of Transportation.

The Contractor shall also be guided by requirements promulgated by officials of the City of Greenville. The Contractor shall implicitly follow instructions given by said officials.

In addition to complying with safety requirements set forth in the General Conditions, the Contractor shall:

Inform himself of and fully comply with all applicable requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 (p.L.91596) in the performance of work required under this Contract.

The Contractor shall adhere to the rules, regulations, and interpretations of the Secretary of the Department of Labor (29 CFR Part 1518, 36 F.R., 7340, April 17, 1971) relating to safety and health for construction which are hereby incorporated into these requirements.

The Contractor shall follow all rules set out; in the regulations and recommendations published by the Associated General Contractors and the North Carolina Department of Labor, and use every effort to safeguard life and property throughout his operations.

9. PRECONSTRUCTION CONFERENCE

A pre-construction conference shall be held as provided in the General Conditions, Article 2.06, after review by the Engineer of the construction progress schedules submitted by the Contractor.

In addition to the representatives required to attend this conference, the Engineer will request that representatives of major subcontractors and affected utility companies and governmental agencies also attend the conference.

10. TESTING ALLOWANCE

General: The Contractor shall include cash allowances of the amounts herein specified in his Proposal for quality control testing of asphalt concrete pavements and concrete work during construction. The cost of testing all soil materials and coarse aggregate base course shall be borne by the Contractor and will not be considered a part of the testing allowance. The testing is to be performed as herein required and/or directed by the Engineer. The contractor will only be paid for any testing in which a receipt from the testing agency is submitted with the pay request for that testing.

The Testing Agencies shall be selected by the Contractor and approved by the Engineer. The Contractor shall submit each Testing Agency's cost proposal and qualification statement to the Engineer for review prior to the Engineer's approval of the Testing Agency.

The Contractor shall be responsible for all testing costs with results which do not meet or exceed the specified standards. These costs shall not be deducted from the testing allowance. The Owner shall be responsible for all asphalt concrete pavement testing costs with results meeting or exceeding the specified standards except as otherwise specified. These costs shall be paid for by the Contractor through the testing allowance upon approval by the Engineer. Only those tests specifically authorized by the Engineer are deductible from the allowance. The Engineer shall have the option to reject any materials or workmanship not meeting or exceeding the specification requirements.

Asphalt Concrete Pavement Testing and Inspection

Portland Cement Concrete Testing and Inspection

A lump sum as indicated in the BID FORM for reimbursement of the Contractor for providing quality control testing during paving and concrete operations as required by the Engineer shall be a part of the Contractor's Proposal.

The Contractor shall be responsible for all costs of providing mix designs, job-mix formulas and associated materials evaluations required for asphalt concrete materials. These costs shall not be deducted from the testing allowance.

11. ARBITRATION - Delete Article 16 in its entirety.

12. CONTROL OF UTILITIES - Add the following sentence to the end of General Conditions, Article 7, paragraph 7.03A:

“Utilities maintained and operated by Greenville Utilities Commission are not under the control of Owner.”

END OF SUPPLEMENTARY CONDITIONS

STANDARD SPECIAL PROVISIONS

1. STANDARD SPECIFICATIONS

The 2018 edition of the Standard Specifications for Roads and Structures of the North Carolina Department of Transportation hereinafter referred to as the 'Standard Specifications' shall apply on all portions of the project unless otherwise specified herein.

2. SUPERVISION BY THE CONTRACTOR

At the time work is actually performed, the contractor shall have present on the project one individual who has been authorized to act in a supervisory capacity over all work on the project including work subcontracted. The individual who has been so authorized shall be experienced in the type of work being performed and is to be fully capable of managing, directing, and coordinating the work; of reading and thoroughly understanding the contract and of receiving and carrying out directions from the Engineer or his authorized representatives. He shall be an employee of the contractor, unless otherwise approved by the Engineer.

3. DEFINITION OF TERMS:

Whenever the following terms are used in the Standard Specifications, in any of the contract documents, or in the plans, the intended meaning of such terms shall be as follows:

- a. "State" or "Department" shall be replaced by the words 'City of Greenville'.
- b. "Engineer" or "Resident Engineer" shall be replaced by the words "City Engineer or his duly authorized representative".
- c. "Sampling and Testing by Department" shall be replaced by the words "Sampling and Testing by City or its approved testing agency".
- d. "Inspection by Department" shall be replaced by the words "Inspection by the City or its duly authorized representative".
- e. "City Standard" shall refer to the "Greenville Manual of Standard Designs and Details".
- f. "City Water Main Standard" and "City Sanitary Sewer Standard" shall refer to the latest edition of the "Greenville Manual of Standard Designs and Details".
- g. "Landscape Construction Standards, shall refer to the Ground Cover Section of the "Manual of Standard Designs and Details" for construction with the jurisdiction of the City Of Greenville.
- h. The term "Abnormal weather conditions" as mentioned in Paragraph 12.03 of the General Conditions, or elsewhere in the General Conditions, Standard Special Provisions, other Contract Documents or Plans, is hereby revised to "weather conditions," and shall be defined as weather occurring in any day in which at least 0.2" of rainfall precipitation or greater occurs, as measured by an accurate rain gauge provided by the Contractor at an uncovered location onsite, from the end of normal work hours the previous day through normal work hours of the same day.

- i. "Normal Work Hours" shall be defined as Monday through Friday, 8:00am to 5:00pm.
- j. "Non-Workday" shall be defined as all City holidays, weekends, or any day the Contractor has indicated no work is planned. This shall include days during which the Contractor has demobilized from the project.

4. ADDENDA:

Addenda will be mailed, either electronically or via US Postal Service, to "Bidders of Record", and will be on file in the Office of the Engineer. It shall be the Bidder's responsibility to make inquiry as to the Addenda issued. All such Addenda shall become part of the contract and all Bidders shall be bound by such Addenda whether or not received or acknowledged by the Bidder.

5. SUBSURFACE INVESTIGATION:

The Contractor shall make his own subsurface investigations. Any information obtained by the City as a result of its own subsurface investigations will be made available upon request. This information (when available) is provided for informational purposes only and shall not relieve the Contractor of making his own investigations. The Contractor shall obtain all necessary permits prior to making any pavement cuts on existing streets.

6. AWARDING OF CONTRACT:

The City of Greenville will award the contract or contracts conditioned upon funds being available for construction and other governmental approvals as may be required. The contract will be awarded to the lowest responsible Bidder or Bidders, as required by North Carolina General Statutes. Consideration will be given only to proposals from Contractors who are properly licensed; bonded, experienced in the class of work proposed and who can refer to projects of similar magnitude and character as have been completed by them. The City also reserves the right to reject any and all proposals and to waive informalities or technicalities as it may deem to be in its best interest.

7. CONTRACT BONDS:

Failure of the Contractor to provide the required bonds, insurance, and executed contract within ten (10) days after he receives the notice of award shall be just cause for the forfeiture of the bid bond or bid deposit and rescinding the award of the contract.

Award may then be made to the next responsible bidder or the work may be re-advertised and constructed under contract or otherwise as the City may decide.

Within ten days of notification of award of contracts equal to or exceeding \$100,000, the Contractor shall secure and post a Performance Bond and Labor and Material Payment Bond, each in the amount of 100% of the Total Contract Sum. All such bonds shall be issued by a surety acceptable to the City. The City shall be named as the beneficiary. Cash bonds will not be accepted

8. NOTICE TO PROCEED

A Notice to Proceed will be issued to the Contractor upon receipt of a fully executed contract, bonds, insurance certificates, receipt of approval by other governmental agencies (if required) and any other documentation required by the Engineer.

9. MATERIALS AND EQUIPMENT STORAGE:

The Contractor shall be responsible for locating and providing storage areas for construction materials and equipment. The material and equipment storage shall comply with the local and state ordinances throughout the construction period. The Contractor shall restore the storage area to its original condition upon completion of the project or upon such time as directed by the Engineer. Such restoration shall be at no additional cost to the City.

The Contractor shall be responsible for the safeguarding of materials and equipment against fire, theft and vandalism and shall not hold the City responsible in any way for occurrences of same. The Contractor shall furnish and erect, at no additional cost, whatever works as may be necessary for the protection of the public, including but not limited to barricades, fences, etc. Prior to final payment being made, the Contractor shall obtain a release from the property owner of the storage area utilized for the project.

10. EXISTING UTILITIES:

The City has contacted all involved utility owners of the effect of this project on their respective utility.

Construction plans and anticipated construction schedules have been provided to the utility owners. Each utility owner will be requested to attend the preconstruction conference to discuss potential conflicts and their schedule for relocation where required. All adjustments or relocations will be made by the utility owner unless otherwise indicated in the Contract Documents.

The owners of utilities in this project may include:

Greenville Utilities Commission
Centurylink Communications
Suddenlink Communications
NCDOT
Eastern Pines Water Corporation

The Contractor shall adhere to the provisions of 1985 Underground Damage Prevention Act North Carolina General Statutes 887 Chapter 785 Senate Bill 168 Article 3. To assist the contractor and utility owners in meeting the requirements of this law, there is a "one call system" called "NC ONECALL". Most major utilities with underground facilities in the State subscribe to this service. For calls originating within North Carolina, The NC ONECALL telephone number is 1-800-632-4949. For calls originating outside of North Carolina, the number is (919) 855-5760. The Contractor shall include the cost of any coordination and cooperation of utilities in his bid. NCDOT is not a member of ONECALL. The number to call for NCDOT for wires at intersections is 830-4393. NCDOT requires 72 hours notice.

No additional compensation shall be allowed for delays or inconveniences sustained by the Contractor due to utility relocation or adjustments. No additional payment will be made for re-mobilization required by the utility's failure to relocate utility at the request of the Contractor. The Contractor should refer to Section 108-10 (B) paragraph 3 of the Standard Specifications.

Where changes to utility facilities are to be made solely for the convenience of the Contractor, it shall be the Contractor's responsibility to arrange for such changes, and the Contractor shall bear all costs of such changes.

11. CONSTRUCTION STAKES, LINES AND GRADES:

Construction stakes, lines and grades are the responsibility of the Contractor. This work is incidental to the project scope of work. The entire cost of this work to be distributed among the various other pay items.

12. TAXES & LICENSES:

North Carolina sales and/or use taxes are applicable to purchases of building materials and other tangible personal property by Contractors for use in performing City contracts. Use tax is also due on construction equipment brought into North Carolina for use in the performance of City contracts (N.C. Revenue Laws, G.S. 105-164.4 and G.S. 105-164.6). Contractors are liable for payment of applicable privilege licenses (N.C. Revenue Laws, G.S. 105-54). Contractors are also liable for payment of applicable franchise, corporate income, license and withholding taxes (N.C. Revenue Laws, G.S. 105-122, G.S. 105-123, G.S. 105-134 and G.S. 105-163.2).

13. EROSION AND SEDIMENTATION CONTROL MEASURES:

The Contractor shall install and maintain all erosion and sedimentation control measures and devices necessary to comply with the Erosion and Sedimentation Control Plan and applicable local and state ordinances and laws. All erosion and sedimentation control measures and devices shall be installed prior to beginning clearing or grading operations. Such devices shall be maintained in proper working condition from installation throughout the duration of the project.

The Contractor shall indemnify and hold harmless the City for any penalties imposed against the City by any local or state agency for the Contractor's failure to install and properly maintain erosion and sedimentation control devices. The Contractor shall immediately correct any deficiencies in erosion and sedimentation measures identified by the City or local or state agency. If the Contractor fails to correct the deficiencies within 24 hours after notification, the City will have such corrections performed and assess the cost of these corrections plus a 100% surcharge against the Contractor.

If any borrow or waste areas are to be utilized, it will be the responsibility of the Contractor to notify the property owner that the property owner is responsible for any damage occurring from the site, either as part of the agreement with the Contractor, or on his own. All work, sediment control structures, and seeding will be at the cost of the property owner or Contractor. The City will not participate in the cost of this work on the waste or borrow areas. Prior to final payment being made, the Contractor shall obtain a release from the property owner of the borrow or waste site utilized for the project.

14. HAZARDOUS MATERIALS:

If the Contractor encounters any materials considered or suspected of being hazardous, he shall immediately secure the area and contact the Greenville Fire Department at (252) 329-4397 for further instructions.

15. OSHA REQUIREMENTS

GENERAL CONTRACTOR SAFETY REQUIREMENTS

Supplement to OSHA parts 1910 and 1926.

PART 1 - GENERAL CONTRACTOR REQUIREMENTS

1.1 The Contractor shall comply with OSHA (Occupational Safety and Health Administration) Parts 1910 and 1926, Construction Industry Standards and Interpretations, and with this specification.

1.2 Requests for variances or waivers from this specification are to be made to the Engineer in writing supported by evidence that every reasonable effort has been made to comply with the contractual requirements. A written request for waiver or a variance shall include:

- a. Specific reference to the provision or standard in question;
- b. An explanation as to why the waiver is considered justified; and
- c. The Contractor's proposed alternative, including technical drawings, materials, or equipment specifications needed to enable the Engineer and City's Risk Manager to render a decision.

1.3 No waiver or variance will be approved if it endangers any person. The Contractor shall not proceed under any requested revision of a provision until the Engineer has given written approval. The Contractor is to hold and save harmless the City of Greenville, North Carolina free from any claims or causes of action whatsoever resulting from the Contractor or subcontractors proceeding under a waiver or approved variance.

1.4 Copies of OSHA Parts 1910 and 1926, Construction Industry Standards and Interpretations, may be obtained from:

Superintendent of Document
U.S. Government Printing Office
Washington, DC 20402

1.5 **SAFETY PROGRAM**

Each Contractor is to demonstrate that he or she has facilities for conducting a safety program commensurate with the work under contract. The Contractor is to submit in writing a proposed comprehensive safety program to the Contracting Officer for approval before the start of construction operations. The program is to specifically state what provisions the Contractor proposes to take for the health and safety of all employees, including details relevant to the work

to be done, the hazards associated with the work, and the actions that will be necessary to minimize the identified hazards.

1.6 PRECONSTRUCTION SAFETY MEETING

Representatives for the Contractor are to meet with the Contracting Officer or the Contracting Officer's representative before the start of construction to discuss the safety program and the implementation of all health and safety standards pertinent to the work under this contract.

1.7 JOINT SAFETY POLICY COMMITTEE

The Contractor, or designated onsite representative, is to participate in monthly meetings of a Joint Safety Policy Committee, composed of Contracting Local Organization and Contractor supervisory personnel. At these meetings, the Contractor's project manager and the Contracting Officer will review the effectiveness of the Contractor's safety effort, resolve current health and safety problems, and coordinate safety activities for upcoming work.

1.8 SAFETY PERSONNEL

Each Contractor is to designate a competent supervisory employee satisfactory to the Contracting Officer to administer the safety program.

1.9 SAFETY MEETINGS

A minimum of one on-the-job or toolbox safety meeting is to be conducted each week by all field supervisors or foremen and attended by mechanics and all construction personnel at the job site. The Contractor is to also conduct regularly scheduled supervisory safety meetings at least monthly for all levels of job supervision.

1.10 SAFETY INSPECTION

The Contractor shall perform frequent and regular safety inspections of the job site, materials, and equipment, and shall correct deficiencies.

1.11 FIRST AID TRAINING

Every Contractor foreman's work crew must include an employee who has a current first aid certificate from the Mine Safety and Health Administration, American Red Cross, or other state-approved organization.

1.12 REPORTS

Each Contractor is to maintain an accurate record of all job-related deaths, diseases, or disabling injuries. The records shall be maintained in a manner approved the Engineer. A copy of all reports is to be provided to the Engineer. All fatal or serious injuries are to be reported immediately to the Engineer who will contact the City of Greenville's Risk Manager; and every assistance is to be given in the investigation of the incident, including submission of a comprehensive narrative report to the Engineer. Other occurrences with serious accident potential, such as equipment failures, slides, and cave-ins, must also be reported immediately. The Contractor is to assist and cooperate fully with the Engineer and City's Risk Manager in conducting accident investigations. The Engineer is to be furnished all information and data pertinent to investigation of an accident.

PART 2 - FIRST AID AND MEDICAL FACILITIES

2.1 FIRST AID KITS. A 16-unit first aid kit approved by the American Red Cross is to be provided at accessible, well-identified, locations at the ratio of at least one kit for each 25 employees. The first aid kits are to be moisture-proof and dust-tight, and the contents of the kits are to be replenished as used or as they become ineffective or outdated.

2.2 EMERGENCY FIRST AID. At least one employee certified to administer emergency first aid must be available on each shift and duly designated by the Contractor to care for injured employees. The names of the certified employees shall be posted at the job site.

2.3 COMMUNICATION AND TRANSPORTATION. Prior to the start of work, the Contractor is to make necessary arrangements for prompt and dependable communications, transportation, and medical care for injured employees. At least one stretcher and two blankets shall be readily available for transporting injured employees.

2.4 FIRST AID AND MEDICAL REPORTS. The Contractor is to maintain a record system for first aid and medical treatment on the job site. Such records are to be readily available to the Contracting Officer and are to include--

- a. A daily treatment log listing chronologically all persons treated for occupational injuries and illnesses;
- b. Cumulative record of injury for each individual;
- c. Monthly statistical records of occupational injuries, classified by type and nature of injury; and
- d. Required records for worker's compensation.

2.5 SIGNS AND DIRECTIONAL MARKINGS. Adequate identification and directional markers are to be provided to readily denote the location of all first aid stations.

2.6 EMERGENCY LISTING. A listing of telephone numbers and addresses of doctor, rescue squad, hospital, police, and fire departments is to be provided at all first aid locations.

PART 3 - PHYSICAL QUALIFICATION OF EMPLOYEES

3.1 GENERAL REQUIREMENTS. Persons employed throughout the contract are to be physically qualified to perform their assigned duties. Employees must not knowingly be permitted or required to work while their ability or alertness is impaired by fatigue, illness, or any other reason that may jeopardize themselves or others.

3.2 HOIST OPERATIONS. Operators of cranes, cableways, and other hoisting equipment shall be examined annually by a physician and provided with a certification stating that they are physically qualified to safely operate hoisting equipment. The Contractor is to submit a copy of each certification to the Contracting Officer.

3.3 MOTOR VEHICLE OPERATORS. Operators of motor vehicles engaged primarily in the transportation of personnel are to be 18 years of age or older and have a valid state operator's permit or license for the equipment being operated. The operators must have passed a physical examination administered by a licensed physician within the past year showing that they are physically qualified to operate vehicles safely.

PART 4 - PERSONAL PROTECTIVE EQUIPMENT

4.1 HARDHAT AREAS. The entire job site, with the exception of offices, shall be considered a hardhat area. All persons entering the area are, without exception, required to wear hardhats.

The Contractor shall provide hardhats for visitors entering hardhat areas.

4.1.1 LABELS. Hardhats shall bear a manufacturer's label indicating design compliance with the appropriate ANSI (American National Standards Institute) standard.

4.2 POSTING. Signs, at least 3 by 4 feet, worded as follows, with red letters (minimum 6 inches high) and white background shall be erected at access points to designated hardhat area:

**CONSTRUCTION AREA
HARDHATS REQUIRED
BEYOND THIS POINT**

These signs are to be furnished and installed by the Contractor at entries to shops, construction yards, and job access points.

PART 5 - MACHINERY AND MECHANIZED EQUIPMENT

5.1 SAFE CONDITION. Before any machinery or mechanized equipment is initially used on the job, it must be inspected and tested by qualified personnel and determined to be in safe operating condition and appropriate for the intended use. Operators shall inspect their equipment prior to the beginning of each shift. Any deficiencies or defects shall be corrected prior to using the equipment. Safety equipment, such as seatbelts, installed on machinery, is to be used by equipment operators.

5.2 TAGGING AND LOCKING. The controls of power-driven equipment under repair are to be locked. An effective lockout and tagging procedure is to be established, prescribing specific responsibilities and safety procedures to be followed by the person or persons performing repair work.

5.3 OPERATORS, RIDING ON EQUIPMENT, GETTING ON OR OFF EQUIPMENT, HOURS OF OPERATION

5.3.1 OPERATORS. Machinery and mechanized equipment shall be operated only by authorized qualified persons.

5.3.2 RIDING ON EQUIPMENT. Riding on equipment by unauthorized personnel is prohibited. Seating and safety belts shall be provided for the operator and all passengers.

5.3.3 GETTING ON OR OFF EQUIPMENT. Getting on or off equipment while the machinery is in motion is prohibited.

5.3.4 HOURS OF OPERATION. Except in emergencies, an equipment operator shall not operate any mobile or hoisting equipment for more than 12 hours without an 8-hour rest interval away from the job.

5.5 ROLLOVER PROTECTIVE STRUCTURES (ROPS)

5.5.1 ROLLOVER PROTECTIVE STRUCTURES. OSHA 1926, Subpart W, Overhead Protection, Sections 1000 and 1002, are applicable regardless of the year in which the equipment was manufactured and regardless of the stuck capacity of the equipment.

5.5.2 EQUIPMENT REQUIRING ROPS. The requirement for ROPS meeting 5.5.1 above applies to crawler and rubber-tired tractors such as dozers, push-and-pull tractors, winch tractors, tractors with backhoes, and mowers; off-highway, self-propelled, pneumatic-tired earthmovers, including scrapers, motor graders and loaders; and rollers, compactors, and water tankers (excluding trucks and cabs). These requirements shall also apply to agricultural and industrial tractors and similar equipment.

16. SUBLETTING:

The Engineer reserves the right to waive any subcontracting limits whenever it is deemed to be in the best interest of the City. The limits can be waived only upon written approval from the Engineer.

17. TERMINATION FOR CONVENIENCE:

The City may terminate the contract upon ten days written notice to the Contractor without cause. Any project assigned prior to the termination notice shall be completed and the Contractor will be paid in accordance with the terms of this contract.

18. CARE OF WORK:

The Contractor shall furnish and erect, at no additional cost to the City, whatever sidewalks, bridges and culverts, or other works as may be necessary for the protection of the public including but not limited to barricades, fences, etc. and for the safe and proper execution of other public utility lines so as not to interfere therewith or damage or cause damage thereto. The Contractor shall be responsible for all damages to persons or property that occur as a result of his fault, emission, or negligence in connection with the prosecution of the work and shall be responsible for the proper care and protection of all work performed hereunder until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the City.

19. CLEANING UP:

Before acceptance of the project, or as directed by the Engineer, roadway, borrow sources, waste areas, and all ground occupied by the Contractor within the project limits in connection with the work shall be cleaned of all rubbish, excess materials, temporary structures, and equipment.

20. INDEMNIFICATION:

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the City and its agents and employees, from and against all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.

In any and all claims against the City or any of its agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

21. INSURANCE REQUIREMENTS:

Contractor's Liability And Other Insurance:

The Contractor shall purchase and maintain with a company acceptable to the City and authorized to do business with the State of North Carolina, such insurance as will protect him from claims under worker's compensation laws, disability benefit laws or other similar employee benefit laws; from claims for damages because of bodily injury, occupational sickness or disease, or death of his employees, and claims insured by usual personal injury liability coverage; from claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees including claims insured by usual personal injury liability coverage; and from claims for injury to or destruction of tangible property, including loss of use resulting therefrom - any or all of which may arise out of or result from the contractors operations under the contract documents, whether such operations be by himself or any subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. This insurance shall be written for not less than the limits of liability specified below.

Automobile - Bodily injury and property liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit - Bodily injury and property damage combined.

Commercial General Liability - Bodily injury and property damage liability as shall protect the contractor and any subcontractor performing work under this contract from claims of bodily injury or property damage which arise from operations of this contract whether such operations are performed by the contractor, any subcontractor or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products/completed operations, personal injury liability and

contractual liability assumed under the indemnity provision of this contract and broad form property damage, explosion, collapse and underground property damage (XC&U). The coverage shall be on an occurrence basis.

Worker's Compensation and Employers Liability - Shall meet the statutory requirement of the State of North Carolina, in the amount of \$100,000 each accident and disease - each employee and \$500,000 disease policy limit.

At the time of execution of the contract, the contractor shall provide the City with insurance certificates certifying that the foregoing insurance is in force; and such insurance certificates shall include provisions that the insurance shall not be canceled, allowed to expire or be materially changed without giving the City thirty (30) days advance written notice by registered mail.

The contractor is advised that if any part of the work under the contract is sublet, he shall require the subcontractor(s) to carry insurance as required above. However, this will in no way relieve the contractor from providing full insurance coverage on all phases of the projects, including any that are sublet.

When certain work is to be performed inside rights-of-way owned by railroads, North Carolina Department of Transportation or other agencies, both the contractor and any subcontractor may be required to furnish individual insurance certificates made in favor by the controlling agency, with limits established by that agency.

22. PRECONSTRUCTION CONFERENCE:

A preconstruction conference will be scheduled as soon as practical after the award of the contract. The Contractor shall attend the conference along with the prospective job superintendent; any anticipated major subcontractors and major material suppliers. A proposed progress schedule in a form satisfactory to the Engineer and a statement of the anticipated monthly progress payments showing the percent of progress each month shall be submitted. The Contractor shall also provide at least two (2) local telephone numbers which may be used to contact the Contractor or his authorized representative in the event of an emergency after normal business hours. Upon receipt of the required documentation, a Notice to Proceed will be issued by the Engineer.

23. SPECIFICATIONS PROVIDED:

The Contractor will be provided with three (3) sets of specifications. Additional sets may be obtained at the cost of printing.

24. PERIODIC PAYMENTS:

The City will make periodic payments based on the work progress estimates prepared by the Engineer and the payment request submitted by the Contractor on a monthly schedule established by the Engineer. Payment will be made within twenty (20) calendar days after receipt of a correct payment request.

For contracts less than \$50,000, partial payments may be made twice each month if in the judgment of the Engineer the amount of work performed is sufficient to warrant such payment. No partial payment will be made when the total value of the work performed since the last partial payment, excluding mobilization, amounts to less than \$1,000.00.

Partial payment requests submitted at the end of a quarter, fiscal year or final payment, shall be accompanied by a North Carolina Local Sales or Use Tax Statement for the prime contractor and all subcontractors. Payment requests and tax statements shall be submitted on an original "Application and Certificate for Payment", AIA Document G702, and "Continuation Sheet", AIA Document G703. A form is shown at the end of this section. The tax statement shall show the N.C. Sales Tax and Greenville County tax paid. It shall also list any payments made directly to the North Carolina Department of Revenue. If no tax has been paid during the pay request period, "NONE" shall be entered on the tax form. Each statement shall be signed by a company officer and certified by a Notary Public.

The Contractor shall have a copy of his current payment request on the job site, which may be reviewed by subcontractors upon request.

Retainage shall be withheld from each progress payment in accordance with the provisions of North Carolina General Statute 143-134.1 and as follows:

1. An amount equal to 5% of a progress payment to be made in accordance with the provisions of this Agreement will be deducted and retained from each partial payment until 50% of the work is completed. The Owner shall retain the amounts deducted from a partial payment until final payment is to be made in accordance with the provisions of this Agreement.
2. Upon 50% completion of the work, if the Owner determines that the Contractor's performance is unsatisfactory, an amount equal to 5% of a partial payment to be made in accordance with the provisions of this Agreement will be deducted and retained from each partial payment. Upon 50% completion of the work, if the Owner determines that the Contractor's performance is satisfactory, an amount no greater than 5% of a partial payment to be made in accordance with the provisions of this Agreement will be deducted and retained from each partial payment provided that the sum of the amounts deducted and retained from all partial payments made is no greater than 2.5% of the sum of the amounts of the partial payments made. The Owner shall retain the amounts deducted from a partial payment until final payment is to be made in accordance with the provisions of this Agreement.

Payment will be made on ninety percent (90%) of materials on hand stored on the project site or in a bonded warehouse. Requests for payment of materials on hand shall be accompanied by the original supplier's invoice and proof of insurance coverage of the storage facility.

The Contractor can use a form other than the AIA Document G702 as long as it has a statement that the Contractor certifies the application for payment or adds the following statement to each request for payment:

"I hereby certify that the labor and materials listed on this request for payment have been used in the construction of the Work, or that all materials included in this request for payment and not yet incorporated into the construction are now on the site; and that all lawful charges for labor, materials, etc., covered by previous Certificates for Payment have been paid and that all other lawful charges on which this request for payment is based have been paid for in full or will be paid for in full from the funds received in payment of this request within (10) calendar days from receipt of this partial payment from OWNER."

25. GUARANTEE:

The Contractor shall guarantee all materials and workmanship for a period of one (1) year from the date of acceptance by the City and shall replace any portions that fail because of faulty materials or workmanship at no additional cost to the City. A six (6) month and eleven (11) month inspections will be held during the warranty period. The Contractor shall immediately repair all defective items upon notification. Items repaired under the provisions shall have an extended warranty period of twelve (12) months of repair of the item.

26. PROJECT CLOSEOUT DOCUMENTS:

The Contractor shall provide the following documents with the final payment request:

1. Consent of Surety to Final Payment (Contracts equal to or exceeding \$100,000)
2. Contractor's Release and Waiver of Claim
3. N.C. and Pitt Co. Sales or Use Tax Statements and Certifications
4. Itemized Statement of Payments Made to Minority and Women's Business Enterprises (Notarized)

No final payment will be authorized until these documents have been properly completed and submitted by the Contractor.

27. SALES TAX

Sales taxes may be listed on the proposal, but as a separate item. No charge will be allowed for Federal Excise and Transportation Tax from which the City is exempt.

The following procedure in handling the North Carolina Sales Tax is applicable to this project. Contractors shall comply fully with the requirements outlined hereinafter, in order that the Owner may recover the amount of the tax permitted under the law.

It shall be the Contractor's responsibility to furnish the Owner documentary evidence showing the materials used and sales tax paid by the Contractor and each of his Subcontractors. Such evidence shall be transmitted to the Owner.

The documentary evidence shall consist of a certified statement, by the Contractor and each of his subcontractors individually showing total purchases of materials for each separate vendor and total sales taxes paid each vendor. Certified statement must show the invoice number, or numbers, covered and inclusive dates of such invoices.

28. E-VERIFY COMPLIANCE

The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Contractor utilizes a Subcontractor, the Contractor shall require the Subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Contractor represents that the Contractor and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

29. CHANGE OF CONTRACT TIMES DUE TO WEATHER CONDITIONS

For each planned workday in which Contractor's controlling operation is delayed due to weather conditions as defined in Paragraph 3.h of the Standard Special Provisions, Owner shall extend the Contract Time one day, provided Contractor submits a Claim for adjustment in Contract Time in accordance with the provisions of Paragraph 10.05 of the General Conditions.

Additionally, in instances where Contractor considers site conditions of the project unworkable for two or more consecutive days due to weather conditions from a single-day weather event, including the day of the event, Contractor shall include such day(s) in his Claim for adjustment in Contract Time.

Example: A significant rain event producing 4" of precipitation over two hours begins and ends on Wednesday during the Contract Time. Contractor determines site conditions due to this single-day event prevent work on the controlling operation on the subsequent Thursday and Friday. Contractor submits a Claim for adjustment in Contract Time of three days.

Contractor shall provide documentation with the Claim indicating the additional day(s) impacted by the single-day event was a planned workday, how the single-day event impacted the site and controlling operation, and any other documentation to support Contractor's request.

Owner shall not provide an adjustment in Contract Time due to weather delays for weekends, City holidays, or any other days known to be Non-workdays.

Should Contractor fail to submit his Claim within the timeframe provided in Paragraph 10.05 of the General Conditions, any extension of the Contract Time for the occurrence in question shall be solely determined by Engineer."

30. COLLECTION AND SUBMITTAL OF RAINFALL DATA

Contractor shall provide an accurate rain gauge at an uncovered location of the project site and shall record readings each day for the duration of the project. Contractor shall provide a copy of recorded rainfall data monthly with each application for payment.

Contractor shall be required to record rainfall data on weekends, City holidays, and times during which Contractor has demobilized from the project. Should instances arise in which weather conditions of one day, as defined in Paragraph 3.h of the Standard Special Provisions, cause allegedly unworkable site conditions for subsequent planned workdays, and Contractor fails to record rainfall data, Engineer will use rainfall data recorded by the weather stations located at the Greenville Utilities Commission's Water Treatment Plant for purposes of considering a Claim for adjustment in Contract Time in the absence of Contractor-submitted rainfall data.

31. WORK OUTSIDE NORMAL WORK HOURS

For purposes of the submitting bids, Contractor shall consider that all work requiring immediate inspection will be performed during normal work hours as defined in Paragraph 3 of this section. Upon written request by the Contractor, work outside of these hours may be approved at the

discretion of the City Engineer. Should the Contractor make such request and the City Engineer approve the request, the Contractor shall reimburse the City at a rate of \$40 per hour for the Inspector's time outside normal work hours, and such reimbursement shall be deducted from the next partial payment request.

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SECTION 01010 - PROJECT REQUIREMENTS

RELATED DOCUMENTS:

The general provisions of the Contract, including the General and Special Conditions and Division-1 Specification sections apply to work of this section.

GENERAL DESCRIPTION OF WORK:

Work shall be as included in the Advertisement for Bidders elsewhere in this contract.

OTHER CONSTRUCTION CONTRACTS:

Work at the site performed by others under separate contracts includes the following:

Relocation of Utilities (Electric, Telephone, Etc.)
Adjust Signal Wiring Box, Cable Pedestal, Electric Vault Box, Telephone Manhole
Associated Miscellaneous Work

COORDINATION:

The CONTRACTOR shall plan, schedule, and coordinate his operations in a manner, which will facilitate the simultaneous progress of the Work included under Other Construction Contracts outside the scope of these Contract Documents.

RESPONSIBILITY FOR MATERIALS AND EQUIPMENT:

Items Furnished by CONTRACTOR: The CONTRACTOR shall be fully responsible for all materials and equipment, which he has furnished, and shall furnish necessary replacements at any time prior to expiration of the Guaranty Period.

OFF-SITE STORAGE:

Off-site storage arrangements shall be acceptable to the OWNER for all materials and equipment not incorporated into the work but included in Applications for Payment. Such off-site storage arrangements shall be presented in writing, and shall afford adequate and satisfactory security and protection. Off-site storage facilities shall be accessible to the ENGINEER.

EQUIVALENT MATERIALS AND EQUIPMENT:

Whenever a material or article is specified or described by using the name of a proprietary product or the name of a particular manufacturer or vendor, the specified item mentioned shall be understood as establishing the type, function and quality desired. Other manufacturers' products may be accepted provided sufficient information is submitted to allow the ENGINEER to determine that the products proposed are equivalent to those named.

Requests for review of equivalency will not be accepted from anyone except the CONTRACTOR, and such requests will not be considered until after the Contract has been awarded.

Proposed equivalent and or equal items shall be submitted for review by the procedure set forth in Item No. 10 of the Instructions to Bidders (IB-4 and IB-5).

It is the intent of these specifications to insure that materials and equipment of the highest reliability are supplied. The design of the overall product and selection of materials and equipment included in these specifications have been based upon dimensions, structures, connection wiring, etc. required for the first manufacturer listed in every reference to a quality standard. If material or equipment of another manufacturer (including alternatives specifically referenced) is offered, the cost of any changes in structures, building, piping, wiring, etc., as well as any detailed drawings necessary to show such required changes, shall be borne by the CONTRACTOR with no additional cost to the Owner.

SALVAGE OF MATERIALS AND EQUIPMENT:

Existing materials and equipment removed, and not reused, as a part of the Work shall become the CONTRACTOR's property except the following items which shall remain the Owner's property:

- Fire Hydrants
- Castings
- Utility Boxes
- Signs

Salvaged items not to be reused in the Work, but to remain Owner's property, shall be delivered by CONTRACTOR in good condition to Greenville Utilities Commission Operations Center or to the City of Greenville Public Works Department (depending upon the salvaged item).

The CONTRACTOR shall carefully remove in a manner to prevent damage all materials and equipment specified or indicated to be salvaged and reused or to remain property of the OWNER. He shall store and protect salvaged items specified or indicated to be reused in the Work. Any items damaged in removal, storage or handling through carelessness or improper procedures shall be replaced by the CONTRACTOR in kind or with new items.

The CONTRACTOR may at his option furnish and install new items in lieu of those specified or indicated to be salvaged and reused, in which case such removed items will become the CONTRACTOR's property.

Existing materials and equipment removed by the CONTRACTOR shall not be reused in the Work except where so specified or indicated.

LAND FOR CONSTRUCTION PURPOSES:

The CONTRACTOR will be permitted to use available land belonging to the OWNER, on or near the site of the Work, for construction purposes and for the storage of materials and equipment. The location and extent of the areas so used shall be as indicated on the drawings.

The CONTRACTOR shall immediately move stored material or equipment if any occasion arises, as determined by the OWNER, requiring access to the storage area. Materials or equipment shall not be placed on the property of the OWNER until the OWNER has agreed to the location to be used for storage.

EASEMENTS AND RIGHTS-OF-WAY:

The OWNER will provide the easements and right-of-way for construction. The CONTRACTOR shall confine his construction operations within the limits indicated on the drawings, and shall use due care in placing construction tools, equipment, excavated materials and pipeline materials and supplies, so as to cause the least possible damage to property and interference with traffic.

On Private Property: Easements across private property are indicated on the drawings. The CONTRACTOR shall set stakes to mark the boundaries of construction easement across private property. The stakes shall be protected and maintained until completion of construction and cleanup.

Work within Highway Right-of-way: The OWNER shall obtain Permits. All Work performed and all operations of the CONTRACTOR, his employees or subcontractors, within the limits of highway right-of-way, shall be in conformity with the requirements and be under the control (through the OWNER) of the highway authority owning, or having jurisdiction over and control of, the right-of-way in each case.

OPERATION OF EXISTING FACILITIES:

The existing utilities must be kept in continuous operation throughout the construction period. No interruption will be permitted which adversely affects the degree of service provided. Provided permission is obtained from the OWNER in advance and portions of the existing facilities may be taken out of service for short periods corresponding with periods of minimum service demands.

NOTICES TO OWNERS AND AUTHORITIES:

The CONTRACTOR shall, as provided in General Conditions, notify owners of adjacent property and utilities when prosecution of the Work may affect them.

When it is necessary to temporarily deny access by owners or tenants to their property, the CONTRACTOR shall give notices sufficiently in advance to enable the affected persons to provide for their needs. Notices shall conform to any applicable local ordinance and, whether delivered orally or in writing, shall include appropriate information concerning the interruption and instructions on how to limit their inconvenience.

Utilities and other concerned agencies shall be contacted at least 48 hours prior to cutting or closing streets or other traffic areas or excavating near underground utilities or pole lines. The CONTRACTOR shall contact NC ONE-CALL 48 hours prior to any excavation. Locations of existing utilities by NC ONE-CALL are good for only ten (10) days after the date of location.

EXISTING CITY STREETS:

The Contractor shall provide for the removal and relocation of existing street signs located within the rights of way to allow for construction of sidewalk or utility adjustment. A separate pay item for this work will not be included. Any cost associated with this work should be included in the cost of the sidewalk construction.

UNFAVORABLE CONSTRUCTION CONDITIONS:

During unfavorable weather, wet ground or other unsuitable construction conditions, the CONTRACTOR shall confine his operations to work that will not be affected adversely by such conditions. No portion of

the Work shall be constructed under conditions that would affect adversely the quality or efficiency thereof, unless special means or precautions are taken by the CONTRACTOR to perform the Work in a proper and satisfactory manner.

CUTTING AND PATCHING:

As provided in General Conditions, the CONTRACTOR shall perform all cutting and patching required for the Work and as may be necessary in connection with uncovering Work for inspection or for the correction of defective Work.

The CONTRACTOR shall perform all cutting and patching required for the installation of improperly timed Work, to remove samples of installed materials for testing, provide for alteration of existing facilities or the installation of new Work in existing construction. Except when the cutting or removal of existing construction is specified or indicated, the CONTRACTOR shall not undertake any cutting or demolition that may affect the structural stability of the Work or existing facilities without the ENGINEER's concurrence.

The CONTRACTOR shall provide all shoring, bracing, supports and protective devices necessary to safeguard all Work and existing facilities during cutting and patching operations. Materials shall be cut and removed to the extent indicated on the drawings or as required to complete the Work. Materials shall be removed in a careful manner with no damage to adjacent facilities or materials. The CONTRACTOR shall remove materials, which are not salvageable, from the site.

All Work and existing facilities affected by cutting operations shall be restored with new materials, or with salvaged materials acceptable to the ENGINEER, to obtain a finished installation with the strength, appearance and functional capacity required. If necessary, entire surfaces shall be patched and refinished.

CLEAN UP:

The CONTRACTOR shall keep the premises free at all times from accumulations of waste materials and rubbish. The CONTRACTOR shall provide adequate trash receptacles about the site, and shall promptly empty the containers when filled.

Construction materials stored on the site shall be kept off the ground, neatly stacked, protected from rain and sun when required by the ENGINEER, and the area around the stored materials shall be kept free of trash, weeds and brush.

The CONTRACTOR shall neatly stack construction materials, such as concrete forms and scaffolding when not in use. The CONTRACTOR shall promptly remove splattered concrete, asphalt, oil, paint, corrosive liquids, cleaning solutions, etc. from surfaces to prevent marring or other damage. Volatile wastes shall be properly stored in covered metal containers and removed daily.

Wastes shall not be buried or burned on the site or disposed of into storm drains, sanitary sewers, streams or waterways. All wastes shall be removed from the site and disposed of in a manner complying with local ordinances and anti-pollution laws.

Adequate cleanup shall be a condition for recommendation of progress payment applications.

APPLICABLE CODES:

References in the Contract Documents to local codes mean the North Carolina State Building Code, City of Greenville Manual of Standard Designs and Details, Greenville Utilities Commission Manual for Design and Construction of Water and Wastewater System Extensions, North Carolina Department of Transportation, and any applicable County or municipal codes.

Other standard codes, which apply to the Work, are designated in the specifications.

REFERENCE STANDARDS:

Reference to the standards of any technical society, organization or association, or to codes of local or state authorities, shall mean the latest standard, code, specification or tentative standard adopted and published at the date of receipt of bids, unless specifically stated otherwise.

ABBREVIATIONS AND SYMBOLS:

Abbreviations used in the Contract Documents are defined as follows:

AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
ASCE	American Society of Civil Engineers
ASME	American Society of Mechanical Engineer
ASTM	American Society for Testing and Materials
AWG	American Wire Gauge
APWA	American Public Works Association
AWWA	American Water Works Association
CRSI	Concrete Reinforcing Steel Institute
CS	Commercial Standard
DEM	Division of Environmental Management of the NC Department of Environment, Health and Natural Resources
DEH	Division of Environmental Health of the NC Department of Environment and Natural Resources
Fed Spec	Federal Specifications
NCDOT	North Carolina Department of Transportation
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
NFPA	National Fire Protection Association
NSPC	National Standard Plumbing Code
OSHA	Occupational Safety and Health Administration

PCI	Prestressed Concrete Institute
PS	Product Standard
SAE	Society of Automotive Engineers
SCPRF	Structural Clay Products Research Foundation
SSPC	Steel Structures Painting Council
UL	Underwriters' Laboratories
US	U. S. Bureau of Standards

PRECONSTRUCTION CONFERENCE:

Prior to the commencement of Work at the site, a preconstruction conference will be held at a mutually agreed time and place. The conference shall be attended by:

- The CONTRACTOR and his superintendent
- Principal Subcontractors
- City of Greenville Representatives
- Representatives of Greenville Utilities Commission
- Governmental representatives as appropriate
- Others as requested by CONTRACTOR, OWNER, or ENGINEER

Unless previously submitted to the ENGINEER, the CONTRACTOR shall bring to the conference a tentative schedule for each of the following:

- Progress
- Procurement
- Values for Progress Payment purposes
- Shop Drawings and other submittals

The purpose of the conference is to designate responsible personnel and establish a working relationship. Matters requiring coordination will be discussed and procedures for handling such matters established. The agenda will include:

CONTRACTOR's tentative schedules

- Transmittal, review, and distribution of CONTRACTOR's submittals
- Processing applications for payment
- Maintaining record documents

Critical Work sequencing

Field decisions and Change Orders

Use of premises, office and storage areas, security, housekeeping, and Owner's needs

Major equipment deliveries and priorities

CONTRACTOR'S assignments for safety and first aid

The ENGINEER will preside at the conference and will arrange for keeping the minutes and distributing the minutes to all persons in attendance.

PROGRESS MEETINGS:

Regular progress meetings will be held at an agreed time and place at least monthly and at other times as requested by ENGINEER or required by progress of the Work. The Owner, Contractor, Engineer and all subcontractors active on the site shall be represented at each meeting. The purpose of the meetings will be to review the progress of the Work, maintain coordination of efforts, discuss changes in scheduling and resolve other problems, which may develop.

SITE ADMINISTRATION:

The Contractor shall be responsible for all areas of the site used by him, by other contractors, and all subcontractors in the performance of the Work. He will exert full control over the actions of all employees and other persons with respect to the use and preservation of property and existing facilities, except such controls as may be specifically reserved to the OWNER or others.

The CONTRACTOR has the right to exclude from the site all persons who have no purpose related to the Work or its inspection, and may require all persons on the site (except Owner's employees and ENGINEER) to observe the same regulations, as he requires of his employees.

END OF SECTION 01010

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SECTION 01090 - REFERENCE STANDARDS

PART 1 -- GENERAL

1.01 THE REQUIREMENT

A. Wherever reference is made to any published standards, codes, or standard specifications, it shall mean the latest standard code, specification, or tentative specification of the technical society, organization, or body referred to, which is in effect at the date of receipt of Bids.

B. All materials, products, and procedures used or incorporated in the work shall be in strict conformance with applicable codes, regulations, specifications, and standards.

C. A partial listing of codes, regulations, specifications, and standards includes the following:

Air Conditioning and Refrigeration Institute (ARI)

Air Diffusion Council (ADC)

Air Moving and Conditioning Association (AMCA)

The Aluminum Association (AA)

American Architectural Manufacturers Association (AAMA)

American Concrete Institute (ACI)

American Gear Manufacturers Association (AGMA)

American Hot Dip Galvanizers Association (AHDGA)

American Institute of Steel Construction, Inc. (AISC)

American Iron and Steel Institute (AISI)

American National Standards Institute (ANSI)

American Society of Civil Engineers (ASCE)

American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE)

American Society of Mechanical Engineers (ASME)

American Society for Testing and Materials (ASTM)

American Standards Association (ASA)

American Water Works Association (AWWA)

American Welding Society (AWS)

American Wood-Preservers Association (AWPA)
Anti-Friction Bearing Manufacturers Association (AFBMA)
Consumer Product Safety Commission (CPSC)
Factory Mutual (FM)
Federal Specifications
Instrument Society of America (ISA)
Institute of Electrical and Electronics Engineers (IEEE)
National and Local Fire Codes
Lightning Protection Institute (LPI)
National Electrical Code (NEC)
National Electrical Manufacturer's Association (NEMA)
National Electrical Safety Code (NESC)
National Electrical Testing Association (NETA)
National Fire Protection Association (NFPA)
North Carolina State Building Code
Regulations and Standards of the Occupational Safety and Health Act (OSHA)
Southern Building Code Congress International, Inc. (SBCCI)
Sheet Metal & Air Conditioning Contractors National Association (SMACCNNA)
Standard Mechanical Code
Standard Plumbing Code
Uniform Building Code (UBC)
Underwriters Laboratories Inc. (UL)

D. Contractor shall, when required, furnish evidence satisfactory to the Engineer that materials and methods are in accordance with such standards where so specified.

E. In the event any questions arise as to the application of these standards or codes, copies shall be supplied on-site by the Contractor.

PART 2 -- PRODUCTS

(NOT USED)

PART 3 -- EXECUTION

(NOT USED)

END OF SECTION 01090

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SECTION 01150 – UNIT PRICES

RELATED DOCUMENTS:

The general provisions of the Contract, including the General, Supplementary Conditions and Division-1 Specification sections apply to work of this section.

SCOPE:

This section covers methods of payment for items of Work under this Contract.

GENERAL:

The Total Bid Price for each part of the Project shall cover all Work required by the Contract Documents. All costs in connection with the proper and successful completion of the Work, including furnishing all materials, equipment, supplies and appurtenances; providing all construction plant, equipment and tools; and performing all necessary labor and supervision to fully complete the Work shall be included in the unit and lump sum prices bid. All Work not specifically set forth as a pay item in the Bid Form shall be considered a subsidiary obligation of CONTRACTOR and all costs in connection therewith shall be included in the prices bid.

ESTIMATED QUANTITIES:

All estimated quantities stipulated in the Bid Form or other Contract Documents are approximate and are to be used only (a) as a basis for estimating the probable cost of the Work and (b) for the purpose of comparing the bids submitted for the Work. The actual amounts of work done and materials furnished under unit price items may differ from the estimated quantities. The basis of payment for work and materials will be the actual amount of work done and materials furnished. CONTRACTOR agrees that he will make no claim for damages, anticipated profits or otherwise on account of any difference between the amounts of work actually performed and materials actually furnished and the estimated amounts therefore. Payment will be made or lump sum prices adjusted according to unit prices bid and as described below.

Mobilization (5% maximum): The unit price bid for mobilization shall be full compensation for preparing for work and associated operations, including but not limited to project bonds and insurance, the necessary movement of personnel, equipment, supplies, and incidentals to or near the project site; for establishing offices and facilities as may be required for the work; and the subsequent removal of personnel, equipment, supplies, and incidentals for the work site at the completion of the work; and all other costs which the Contractor may incur for the work which are excluded from other bid items. One half the total amount will be paid with first partial payment after construction begins, and the remaining one half with the second partial payment. The total amount for mobilization and bonding shall not exceed 5 percent of the total bid price.

Asphalt Concrete Surface Course, Type S9.5C: Includes all materials, labor, equipment, and incidentals necessary to satisfactorily place, complete and accepted, asphalt pavement at the thickness noted in the Bid Form. Payment shall be made at the contract unit price for the actual number of tons incorporated into the project. No separate payment will be made for asphalt binder for plant mix.

Asphalt Plant Mix, Pavement Repair, 4" Deep (or 5" where indicated): Includes all materials, labor, equipment, and incidentals necessary to excavate or otherwise remove unsuitable materials below milled depth, disposal of removed materials, and furnishing, placing, and compacting asphalt plant mix, Type B25.0C. Unsuitable materials may include, but not be limited to, tree roots, soft, wet or otherwise unacceptable soil subgrade, and ABC stone. Payment will be made at the contract unit price for the actual square yards of pavement satisfactorily repaired.

Adjust/Replace Existing Water/Gas Valve Boxes: Adjust existing valve boxes as necessary to match the finished grade or to allow for project construction. Payment will be per valve box adjusted as listed in the schedule of quantities. If a water/gas valve needs to be replaced, the contractor may pick up new castings from Greenville Utilities Commission or Eastern Pines Water Corporation.

Adjust/Replace Existing Storm Drain/Sanitary Sewer Castings and Cover: Adjust existing storm drain or sanitary sewer casting as necessary to match the finished grade or to allow for project construction. Payment will be per drop inlet / junction box adjusted as listed in the schedule of quantities. If a storm drain or sanitary sewer casting needs to be replace, the contractor may pick up new castings from the Public Works Department (storm) or Greenville Utilities Commission (sanitary).

Removal of Existing Speed Humps: Includes removing existing speeds humps to finished grade or milled depth, regardless of width or material. Payment will be made at the contract unit price per each speed hump removed as listed in the schedule of quantities.

Removal of Existing Concrete Curb and Gutter: Includes removal and disposal of concrete curb and gutter as well as unsatisfactory subgrade materials. This item includes all necessary materials, labor, equipment and incidentals needed to satisfactorily complete the work. Payment will be at the contract unit price per linear foot removed as listed in the schedule of quantities.

Removal of Existing Concrete Wheelchair Ramp: Includes all materials, labor, equipment and incidentals necessary to remove and dispose of existing concrete wheelchair ramps and associated wipe downs. Payment will be made at the contract unit price per each ramp removed as listed in the schedule of quantities.

24" Concrete Curb and Gutter: This item shall include the materials, equipment, and labor necessary to install 24" concrete curb and gutter including stone base to final grade. Payment will be at the contract unit price per linear foot installed as listed in the schedule of quantities.

4" Thick Concrete Sidewalk: This item shall include all materials, equipment, labor and incidentals necessary to install 4" thick concrete sidewalk, complete and accepted. The work of installing 48"x48" flat concrete pads at the top of existing wheelchair ramps will be paid as part of this item. Payment will

be at the contract unit price per square yard of concrete sidewalk incorporated into the project as shown in the schedule of quantities.

Types 1, 1A, 2, 2A, 3, 4, 4A, and 5 Concrete Wheelchair Ramps: This item includes the materials, equipment and labor necessary to install concrete Wheel Chair Ramps per City of Greenville Standards or NCDOT Standard Details. The cost also includes installation of any curb work / wipe downs associated with the installation of the Wheelchair Ramps, but does not include the removal of any curb work / wipe downs. The Contractor shall use Armor-Tile Cast in Place Detectable Warning Tiles (24" X 48") black in color or approved equal, which shall be considered incidental to the work of wheel chair ramp installation.

Any disturbed area around wheelchair ramps will include incidental seeding and mulching. This will not be paid as a separate item but incidental to the ramps bid line item.

Work Zone Traffic Control: This item shall include all materials, labor, equipment, and incidentals necessary to provide traffic control in accordance with NCDOT traffic control requirements, to include but not be limited to, signs, supports, barrels, cones, and flaggers. For multi-lane facilities, Contractor shall submit a traffic control plan to the City Traffic Engineer for review and approval.

Seeding and Mulching: This item shall include the labor, equipment, and materials necessary to complete seeding and mulching for areas around the backfill needed. The only backfill needed will be addressed on streets with overlay. Any areas around concrete wheelchair ramps that are disturbed will use seeding and mulching as an incidental to the line item of wheelchair ramps.

Backfill of Shoulders/Roadway Edges: This item will be measured and paid as the actual number of square yards of shoulders that have been reconstructed. Such price shall include hauling of any topsoil material, for all labor, tools, equipment, and incidentals necessary to complete the work.

Milling Asphalt Pavement, 1"-3" Depth & 4' Edge Milling: Includes all equipment, labor, materials, and incidentals necessary to mill pavement locations to depths noted, clean the milled surface, load, haul, stockpile and/or dispose of milled material. Payment will be made at the contract unit price per square yard measured horizontally along the surface.

Thermoplastic Pavements Markings: Includes all equipment, labor, materials, and incidentals necessary to install thermoplastic pavement markings covered or otherwise removed by the milling and paving operations. Payment will be made at the contact unit prices per unit as shown in the schedule of prices.

Bid Items for "SCHOOL", "ONLY", and "RXR" will be paid as a complete unit, including any 24" bars required as part of these units. Single stop bars to be installed at locations separate of these items will be paid under the item of 24" Thermoplastic White Line.

Parking "T"'s will be paid per each complete "T".

Subsidiary Obligations: All work not specifically set forth as a pay item in the Bid Proposal shall be considered a subsidiary obligation of the Contractor and all costs in connection therewith shall be included in the prices bid. Subsidiary obligations include, but are not limited to temporary drainage

provisions, dewatering, removal and off-site disposal of excess or unsuitable materials and debris, removal and replacement of existing features such as culverts, mailboxes, and lawns, and any construction staking needed to complete project.

Unit Prices

01150-4

SECTION 01300 - SUBMITTALS

PART 1 - GENERAL

RELATED DOCUMENTS:

The general provisions of the Contract, including the General and Special Conditions and Division-1 Specification sections apply to work of this section.

CONSTRUCTION SCHEDULE:

Before Work is started, the CONTRACTOR for Contract of the project shall submit to the ENGINEER for review three copies of the schedule of the proposed construction operations. The OWNER shall cooperate with the CONTRACTOR in arrangements for continuity of service and operation of valves and other control facilities. The construction schedule shall indicate the sequence of the Work, the time of starting and completion of each part, the installation date for each major item of equipment, and the time for making connections to existing piping, structures, or facilities.

At least every 30 days the schedule shall be revised as necessary to reflect changes in the progress of the Work. The schedule revisions will be discussed at the monthly progress meeting.

The OWNER may require the CONTRACTOR to add to his plant, equipment, or construction forces, as well as increase the working hours, if operations fall behind schedule at any time during the construction period.

PROGRESS REPORTS:

A progress report shall be furnished to the ENGINEER with each copy of the application for progress payment. If the Work falls behind schedule, the CONTRACTOR shall submit additional progress reports at such intervals as ENGINEER may request.

Each progress report shall include sufficient narrative to describe current and anticipated delaying factors, their effect on the construction schedule, and proposed corrective actions. Any Work reported complete, but which is not readily apparent to the ENGINEER, must be substantiated with satisfactory evidence.

Each progress report shall also include three prints of the accepted graphic schedule marked to indicate actual progress.

SURVEY DATA:

All field books, notes, and other data developed by the CONTRACTOR in performing surveys required as part of the Work shall be available to the ENGINEER for examination throughout the construction period. All such data shall be submitted to the ENGINEER with the other documentation required for final acceptance of the Work.

SHOP DRAWINGS, MATERIAL CERTIFICATES AND PRODUCT DATA:

Engineering data covering all equipment and fabricated materials that will become a permanent part of the Work under this contract shall be submitted to the ENGINEER for review prior to installation.

Material Certificates are notarized statements by an official of the supplier certifying that the materials meet the specifications and are used in lieu of or in addition to shop drawings and product data.

All submittals, regardless of origin, shall be stamped with the approval of CONTRACTOR and identified with the name and number of the Contract, the CONTRACTOR's name, and references to applicable specification paragraphs and Contract Drawings. Each submittal shall indicate the intended use of the item in the Work. When catalog pages are submitted, applicable items shall be clearly identified. The current revision, issue number, and date shall be indicated on all drawings and other descriptive data.

The CONTRACTOR's stamp of approval is a representation to the OWNER and the ENGINEER that the CONTRACTOR accepts full responsibility for determining and verifying all quantities, dimensions, field construction criteria, materials, catalog numbers, and similar data, and that he has reviewed or coordinated each submittal with the requirements of the Work and the Contract Documents.

All deviations from the Contract Documents shall be identified on each submittal and shall be tabulated in the CONTRACTOR's letter of transmittal. Such submittals shall, as pertinent to the deviation, indicate essential details of all changes proposed by CONTRACTOR (including modifications to other facilities that may be a result of the deviation) and all required piping and wiring diagrams.

The CONTRACTOR shall accept full responsibility for the completeness of each submission, and, in the case of a resubmission, shall verify that all exceptions previously noted by ENGINEER have been taken into account. In the event that more than one resubmission is required because of failure of the CONTRACTOR to account for exceptions previously noted, the CONTRACTOR shall reimburse the OWNER for the charges of the ENGINEER for review of the additional resubmissions.

Any need for more than one resubmission, or any other delay in obtaining the ENGINEER's review of submittals, will not entitle the CONTRACTOR to extension of the Contract Time unless delay of the Work is directly caused by a change in the Work authorized by a Change Order or by failure of ENGINEER to return any submittal within 21 days after its receipt in the ENGINEER's office.

The ENGINEER's review of drawings and data submitted by the CONTRACTOR will cover only general conformity to the drawings and specifications, external connections, and dimensions, which affect the layout. The ENGINEER's review does not indicate a thorough review of all dimensions, quantities, and details of the material, equipment, device, or item shown. The ENGINEER's review of submittals shall not relieve the CONTRACTOR from responsibility for errors, omissions, or deviations, or responsibility for compliance with the Contract Documents.

Five copies (or one reproducible copy of large drawings) of each drawing and necessary data shall be submitted to the ENGINEER. The ENGINEER will not accept submittals from anyone but the CONTRACTOR. Submittals shall be consecutively numbered in direct sequence of submittal and without division by subcontracts or trades. Resubmittals shall bear the number of the first submittal followed by a letter (A, B, etc.) to indicate the sequence of the resubmittal.

When the drawings and data are returned marked DISAPPROVED or RESUBMIT, the corrections shall be made as noted thereon and as instructed by the ENGINEER and five corrected copies (or one corrected reproducible copy) resubmitted.

When corrected copies are resubmitted, the CONTRACTOR shall in writing direct specific attention to all revisions and shall list separately any revisions made other than those called for by the ENGINEER on previous submissions.

When the drawings and data are returned marked APPROVED AS NOTED, APPROVED, or RECORD COPY, no additional copies need be furnished.

END OF SECTION 01300

Submittals

01300-3

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Submittals

01300-4

SECTION 01400 - QUALITY CONTROL

PART 1 - GENERAL

RELATED DOCUMENTS:

The general provisions of the Contract including the General and Special Conditions and Division-1 Specification sections apply to work of this section.

TESTING LABORATORY SERVICES:

An independent commercial testing laboratory acceptable to the ENGINEER shall perform all tests, which require the services of a laboratory to determine compliance with the Contract Documents. The laboratory shall be staffed with experienced technicians, properly equipped, and fully qualified to perform the tests in accordance with the specified standards. The CONTRACTOR shall obtain the ENGINEER's approval of the Testing Laboratory before having services performed.

Testing Laboratory Services for Materials Qualification: The CONTRACTOR shall be responsible for all testing laboratory services in connection with concrete materials and mix designs, the design of asphalt mixtures, gradation tests for embedment, fill, and backfill materials, and all other tests and engineering data required for the ENGINEER's review of materials and equipment proposed to be used in the Work. The CONTRACTOR shall pay all costs for services for materials qualifications.

Testing Laboratory Services for Field Quality Control: The testing laboratory for field quality control shall work for the OWNER but is paid for by the CONTRACTOR from the testing allowance. All charges of testing laboratories for field quality control tests made in the field or laboratory on concrete, asphalt mixtures, moisture density (Proctor) and relative density tests on embedment, fill, and backfill materials, in place field density tests on embedment's and fills, and other materials and equipment, during and after their incorporation in the Work shall be paid by the CONTRACTOR out of the testing allowance as discussed in SECTION 01010. Testing due to failed tests and wasted time due to improper scheduling by the CONTRACTOR will be paid for by the CONTRACTOR, not out of the testing allowance. Field sampling and testing will be performed by the CONTRACTOR or testing laboratory personnel, in the general manner indicated in the specifications, with minimum interference with construction operations. The ENGINEER shall determine the exact time and location of field sampling and testing, and may require such additional sampling and testing as necessary to determine that materials and equipment conform with data previously furnished by the CONTRACTOR and to the Contract Documents.

Arrangements for delivery of samples and test specimens to the testing laboratory will be made by the CONTRACTOR. The testing laboratory shall perform all laboratory tests within a reasonable time consistent with the specified standards and shall furnish a written report of each test.

The CONTRACTOR shall furnish all sample materials and cooperate in the sampling and field-testing activities, interrupting the Work when necessary. When sampling or testing activities are performed in the field by testing laboratory personnel, the CONTRACTOR shall furnish personnel and facilities to assist in the activities.

The OWNER shall not require the CONTRACTOR to retain any testing laboratory against which the CONTRACTOR has reasonable objection, and if at any time during the construction process the services become unacceptable to the CONTRACTOR, he may request in writing that such services be terminated. The request must be supported with evidence of improper testing. If the ENGINEER and the OWNER determine that sufficient cause exists, the CONTRACTOR may terminate the services and engage a different testing laboratory.

Transmittal of Test Reports: Written reports of tests and engineering data furnished by the CONTRACTOR for the ENGINEER's review of materials and equipment proposed to be used in the Work shall be submitted as specified for Shop Drawings in Section 01300.

The testing laboratory retained by the CONTRACTOR will furnish three copies of a written report of each test performed by laboratory personnel in the field or laboratory. Two copies of each test report will be transmitted to the ENGINEER and one copy to the CONTRACTOR within three days after each test is completed.

END OF SECTION 01400

Quality Control

01400-2

SECTION 01500 - TEMPORARY FACILITIES

RELATED DOCUMENTS:

The general provisions of the Contract, including the General and Special Conditions and Division-1 Specification sections apply to work of this section.

WATER:

All water required for and in connection with the Work to be performed and for any specified tests of piping, equipment, devices, etc. or for any other use as may be required for proper completion of the Work shall be provided by and at the expense of the CONTRACTOR. No separate payment for water used or required will be made and all costs in connection therewith shall be included in the Bid.

POWER:

The CONTRACTOR shall provide all power for operation of the CONTRACTOR's equipment, or for any other use by CONTRACTOR.

SANITARY FACILITIES:

The CONTRACTOR under Contract shall furnish temporary sanitary facilities at the site, as provided herein, for the needs of all construction workers and others performing work or furnishing services on the Project.

Sanitary facilities shall be of reasonable capacity, properly maintained throughout the construction period, and obscured from public view to the greatest practical extent. If toilets of the chemically treated type are used, at least one toilet will be furnished for each 20 men. The CONTRACTOR shall enforce the use of such sanitary facilities by all personnel at the site.

MAINTENANCE OF TRAFFIC:

The CONTRACTOR shall conduct his work to interfere as little as possible with public travel, whether vehicular or pedestrian. Whenever it is necessary to cross, obstruct, or close roads, driveways and walks, whether public or private, the CONTRACTOR shall provide and maintain suitable and safe bridges, detours, or other temporary expedients for the accommodation of public and private travel, and shall give reasonable notice to owners of private drives before interfering with them. Such maintenance of traffic will not be required when CONTRACTOR has obtained permission from the owner and tenant of private property, or from the authority having jurisdiction over public property involved, to obstruct traffic at the designated point.

In making open cut street crossings, the CONTRACTOR shall not block more than one-half of the street at a time. Whenever possible, the CONTRACTOR shall widen the shoulder on the opposite side to facilitate traffic flow. Temporary surfacing shall be provided as necessary on shoulders.

BARRICADES:

All sidewalks, driveways, streets, and other public thoroughfares that are closed to traffic or pedestrians shall be protected by effective barricades on which shall be placed acceptable warning signs. Barricades shall be located at the nearest intersecting public street on each side of the blocked section.

All open trenches and other excavations shall have suitable barricades, signs, and lights to provide adequate protection to the public. Obstructions such as material piles and equipment shall be provided with similar warning signs and lights.

All barricades and obstructions shall be illuminated with warning lights from sunset to sunrise. Material storage and conduct of the Work on or alongside public streets and highways shall cause the minimum obstruction and inconvenience to the traveling public.

All barricades, signs, lights and other protective devices shall be installed and maintained in conformity with applicable statutory requirements and, where within railroad and highway right-of-way, as required by the authority having jurisdiction thereof.

FENCES:

All existing fences affected by the Work shall be maintained by the CONTRACTOR until completion of the Work. Fences which interfere with construction operations shall not be relocated or dismantled until written permission is obtained from the owner of the fence, and the period the fence may be left relocated or dismantled has been agreed upon. Where fences must be maintained across the construction easement, adequate gates shall be installed. Gates shall be kept closed and locked at all times when not in use.

On completion of the Work across any tract of land, the CONTRACTOR shall restore all fences to their original or to a better condition and to their original location.

PROTECTION OF PUBLIC AND PRIVATE PROPERTY:

The CONTRACTOR shall protect, shore, brace, support, and maintain all underground pipes, conduits, drains, and other underground construction uncovered or otherwise affected by their construction operations. All pavement, surfacing, driveways, curbs, walks, buildings, utility poles, guy wires, fences, and other surface structures affected by construction operations, together with all sod and shrubs in yards and parking areas, shall be restored to their original condition, whether within or outside the easement. All replacements shall be made with new materials.

No trees shall be removed outside of the permanent easement, except where authorized by the ENGINEER. Whenever practicable the CONTRACTOR shall tunnel beneath trees in yards and parking areas when on or near the line of trench. Hand excavation shall be employed as necessary to prevent

injury to trees. Trees left standing shall be adequately protected against damage by construction operations.

The CONTRACTOR shall be responsible for all damage to streets, roads, highways, shoulders, ditches, embankments, culverts, bridges, and other public or private property, regardless of location or character, which may be caused by transporting equipment, materials, or men to or from the Work or any part or site thereof, whether by him or his Subcontractors. The CONTRACTOR shall make satisfactory and acceptable arrangements with the owner of, or the agency or authority having jurisdiction over, the damaged property concerning its repair or replacement or payment of costs incurred in connection with the damage.

All fire hydrants and water control valves shall be kept free from obstruction and available for use at all times.

DAMAGE TO EXISTING PROPERTY:

The CONTRACTOR will be held responsible for any damage to existing structures, Work, materials or equipment because of his operations and shall repair or replace any damaged structures, Work, materials, or equipment to the satisfaction of, and at no additional cost to, OWNER.

The CONTRACTOR shall protect all existing structures and property from damage and shall provide bracing, shoring, or other work necessary for such protection.

The CONTRACTOR shall be responsible for all damage to streets, roads, curbs, sidewalks, highways, shoulders, ditches, embankments, culverts, bridges, or other public or private property, which may be caused by transporting equipment, materials, or personnel to or from the Work. The CONTRACTOR shall make satisfactory and acceptable arrangements with the agency having jurisdiction over the damaged property concerning its repair or replacement.

TREE AND PLANT PROTECTION:

All trees and other vegetation that must be removed to perform the Work shall be removed and disposed of by the CONTRACTOR; however, no trees or cultured plants shall be unnecessarily removed unless their removal is indicated on the drawings. All trees and plants not removed shall be protected against injury from construction operations.

Trees considered by the ENGINEER to have any significant effect on construction operations are indicated on the drawings and those, which are to be preserved, are so indicated.

The CONTRACTOR shall take extra measures to protect trees designated to be preserved, such as erecting barricades, trimming to prevent damage from construction equipment, and installing pipe and other Work by means of hand excavation or tunneling methods. Such trees shall not be endangered by stockpiling excavated material or *storing equipment within the drip-line of the tree or* against the trunk.

When the injury or removal of trees designated to be preserved cannot be avoided, or when removal and replacement is indicated on the drawings, each tree injured beyond repair or removed shall be replaced with a similar tree of the nearest size possible.

All trimming, repair, and replacement of trees and plants shall be performed by qualified nurserymen or horticulturists. *Any trimming or removal of any tree within the right-of-way requires a permit obtained through the Urban Forester (329-4531).*

SECURITY:

The CONTRACTOR shall be responsible for protection of the site, and all work, materials, equipment and existing facilities thereon, against vandals and other unauthorized persons.

No claim shall be made against the OWNER by reason of any act of an employee or trespasser, and the CONTRACTOR shall make good all damage to the Owner's property resulting from his failure to provide security measures as specified.

Security measures shall be at least equal to those usually provided by the OWNER to protect his existing facilities during normal operation, but shall also include such additional security fencing, barricades, lighting, watchman services and other measures as required to protect the site.

PARKING:

The CONTRACTOR under Contract shall provide and maintain suitable parking areas for the use of all construction workers and others performing work or furnishing services in connection with the Project as required to avoid any need for parking personal vehicles where they may interfere with public traffic, Owner's operations or construction activities.

TEMPORARY DRAINAGE PROVISIONS:

The CONTRACTOR shall provide for the drainage of storm water and such water as may be applied or discharged on the site in performance of the Work. Drainage facilities shall be adequate to prevent damage to the Work, the site, and adjacent property.

NOISE CONTROL:

The CONTRACTOR shall take reasonable measures to avoid unnecessary noise. Such measures shall be appropriate for the normal ambient sound levels in the area during working hours. All construction machinery and vehicles shall be equipped with practical sound muffling devices, and operated in a manner to cause the least noise consistent with efficient performance of the Work.

EROSION CONTROL:

The CONTRACTOR shall be familiar with the applicable provisions of the North Carolina Sedimentation Pollution Control Act of 1973, General Statutes, Chapter 113A, Article 4. The CONTRACTOR shall prevent erosion of soil on the site and adjacent property resulting from his construction activities. Effective measures shall be initiated prior to the commencement of clearing, grading, excavation, or other operation that will disturb the natural protection.

Work shall be scheduled to expose areas subject to erosion for the shortest possible time, and natural vegetation preserved to the greatest extent practicable. Temporary fast growing vegetation or other suitable ground cover shall be provided as necessary to control runoff.

POLLUTION CONTROL:

The CONTRACTOR shall prevent the pollution of drains and watercourses by sanitary wastes, sediment, debris and other substances resulting from construction activities. No sanitary wastes will be permitted to enter any drain or watercourse other than sanitary sewers. No sediment, debris or other substance will be permitted to enter sanitary sewers and reasonable measures will be taken to prevent such materials from entering any drain or watercourse.

END OF SECTION 01500

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PROJECT REQUIREMENTS

01010-6

SECTION 01575 – MAINTENANCE AND PROTECTION OF TRAFFIC

PART 1 - GENERAL

1.1 SCOPE OF WORK

- A. Work of this section shall be performed in accordance with the requirements of the North Carolina Department of Transportation.
- B. Provide necessary traffic control measures and devices as required.
- C. Provide all bonds necessary to complete the work as the North Carolina Department of Transportation requires.

PART 2 – PRODUCTS

2.1 MATERIALS

- A. All traffic control measures and devices shall conform to the requirements of the North Carolina Department of Transportation's Specifications, more specifically, the N.C.D.O.T. Construction and Maintenance Operation Supplement to the Manual on Uniform Traffic Control Devices, as amended.

PART 3 - EXECUTION

3.1 IMPLEMENTATION

- A. All traffic control measures and devices shall conform to the requirements of the N.C.D.O.T. Specifications, more specifically, the N.C.D.O.T. Construction and Maintenance Operation Supplement to the Manual on Uniform Traffic Control Devices, as amended.
- B. The Engineer has the authority and will suspend all work immediately until all N.C.D.O.T. requirements are met.

3.2 MAINTENANCE OF ACCESS

- A. The Contractor is required to maintain resident's access to their property. At the close of the working day, all driveways will be restored to a usable condition. The Contractor

will fill the trench through the driveway so that the Owners will not damage vehicles when passing. Pavements will be replaced within five (5) working days.

- B. Additionally, the Contractor is required to maintain the mail carriers' access to mailboxes. At the close of each working day, all mailboxes and mailbox approaches will be restored to a usable condition as needed. Compacted fill and ABC stone shall be placed in front of and on approaches to the mailboxes as necessary and will be included in the cost per linear foot of pipe.
- C. The Contractor will coordinate his activities with the Owners' of adjacent properties so as to allow the residents an opportunity to remove their vehicles during periods when driveways are cut or paved and access is not possible.

END OF SECTION 01575

PROJECT SPECIAL PROVISIONS:

PSP-1. LOCATIONS TO BE RESURFACED:

A table of streets is included in the bid form. For purposes of scheduling, the following streets shall be scheduled at the end of Base Bid streets:

- Jefferson Dr.
- Cedar Ln.

School locations: Where streets to be milled and resurfaced are adjacent to school locations, the contractor is responsible for adjusting the hours of operation so there is no conflict with normal school hour operations.

PSP-2. ON STREET PARKING:

Streets with on-street parking that are intended to be milled and resurfaced must be signed "No Parking" at least 72 hours in advance of work commencing. It will be the responsibility of the contractor to obtain and install these signs according to his schedule. Signs must be official City of Greenville signs and may be obtained from the Public Works Department, Traffic Services Division by calling 252-378-5034. Contacting NC811 for locates, as well as providing all supports, hardware, tools, equipment, etc. necessary to install and/or relocate the signs as needed shall be the responsibility of the contractor.

Signs shall be installed at the beginning and end of each street with on-street parking, on each side that provides such parking. Additional intermediate signs shall be placed within 50 feet of all intersecting streets and spaced not more than every 400 feet thereafter.

It shall be the responsibility of the contractor to maintain all signs obtained from the Traffic Services Division. Should any signs be damaged during the work of the project, or should any signs not be returned, the City will assess a fee of \$200 per damaged or unreturned sign, and such fee shall be deducted from the next partial payment invoice.

PSP-3. TRAFFIC CONTROL:

The Contractor shall be responsible for maintaining an approved Traffic Control Plan during the course of this work. The Traffic Control Plan implemented for this project shall be devised through a joint effort of the City Engineer, or designee, and the Contractor immediately prior to construction. **The Contractor at the pre-construction conference shall submit a complete Traffic Control Plan for each multi-lane street being resurfaced, milled or striped.**

In all instances the Contractor shall utilize complete and proper traffic controls and traffic control devices during all operations. **All traffic control and traffic control devices required for any operation shall be functional and in place prior to the commencement of that operation.** Signs for temporary operations shall be removed during periods of

inactivity. The Contractor is required to leave the project in a manner that will be safe to the traveling public and which will not impede motorists.

All traffic control and traffic control devices shall conform to the requirements of the latest National Manual on Uniform Traffic Control Devices.

The Contractor is hereby advised that full compliance with the approved Traffic Control Plan will be required. Any modifications requested by the Contractor must meet the approval of the City Engineer or designee. **Failure to provide, implement and maintain the approved Traffic Control Plan as described above will result in an immediate verbal "Stop Work" order from the City Engineer or designee with no work continuing until necessary corrective measures have been performed.** Work stoppages shall be the expense of the Contractor and no additional payment shall be allowed. No additional contract extension days shall be provided to the Contractor due to the "Stop Work" order.

Flaggers stationed at each end of the work zone shall control traffic movements through lane closures on roads with two-way traffic. In situations where sight distance is limited, the Contractor shall provide additional means of controlling traffic, including, but not limited to, two-way radios, pilot vehicles, or additional flaggers. **Flaggers shall be competent personnel, adequately trained in flagging procedures, and furnished with proper safety devices and equipment, including, but not limited to, safety vests and stop/slow paddles.**

All personnel when working in traffic areas or areas in close proximity to traffic shall wear an approved safety vest, or shirt or jacket which meets the color requirements of the Manual of Uniform Traffic Control Devices (MUTCD).

The Contractor shall comply with all applicable Federal, State, and Local laws, ordinances, and regulations governing safety, health, and sanitation, and shall provide all safeguards, safety devices, and protective equipment, and shall take any other needed actions, on his own responsibility that are reasonably necessary to protect the life and health of employees on the job and the safety of the public, and to protect property in connection with the performance of the work covered by the contract.

PSP-4. VEHICULAR ACCESS:

Maintain continuous and safe vehicular access, including but not limited to all residences, businesses, schools, police and fire stations, hydrants, other emergency services, hospitals and mailboxes. Conduct operations in such a manner as to limit the inconvenience to property owners.

PSP-5. EMERGENCY SERVICES NOTIFICATION:

Before any street being closed to traffic, the contractor shall notify the Emergency Services Dispatchers. The contractor may call the 911 system at 329-43 15 and request that police, fire, Sheriff and EMT personnel be notified, or the contractor may call each service individually.

The contractor will make provisions for access to all parts of the work for emergency vehicles (police, rescue, fire). The contractor will help in providing personnel to deliver sanitary pickup cans and materials to a point where the City crew or City's contractor can load their carrier.

PSP-2

PSP-6. WORK SCHEDULE:

The Contractor shall be required to furnish an anticipated schedule of work at the time of the pre-construction conference. The schedule should be based on the priorities established by the City. No progress payments, including mobilization, shall be made to the contractor until the schedule is reviewed and approved by the City. The Construction Schedule will be updated every 4 weeks. Monthly progress payments will not be processed until the proposed monthly Construction Schedule is submitted with the monthly pay request. **A “Weekly Work Schedule” shall be submitted to the City Engineer or designee on each Thursday no later than 12:00 noon to be placed on the City of Greenville’s Government Information Channel**

This schedule will be subject to approval by the City Engineer or designee. The Contractor shall provide at least 24 hour notice to the City Engineer or designee prior to the commencement of any paving operations.

During day time operations any asphalt placement not started by 1:00PM on any given day shall be suspended for the remainder of that particular day at no cost to the City with no additional contract extension days being provided to the Contractor. **Every effort will be made by the Contractor to start work as early as possible or as traffic lessens. There will be no milling, paving, shoulder work or striping allowed after 5:00 pm of each day.**

Due to complications involved in notifying the public of plans to close streets for construction, the Contractor shall make every effort to honor street closings schedules exactly.

*****Deviations from the agreed schedule will require re-notification of the public and may cause construction delays chargeable to the Contractor. *****

Contractor shall maintain continuous prosecution of the project. The City defines this as once construction commences, all available workdays will be used to complete this project as swiftly as possible. Failure to comply will result in liquidated damages being charged. **The Contractor shall not work on holidays or weekends at no cost to the City with any additional contract extension days being provided to the Contractor.**

Any asphalt produced and or installed for this contract on holidays or weekends without a City representative on site shall be at the expense of the Contractor and at no cost to the City.

PSP-7. PUBLIC RELATIONS:

Good public relations are imperative to the City of Greenville. As a part of the public relations effort, the Contractor shall be required to hang “door knocker” type notices at affected residences or businesses at least 24 hours prior to paving operations. The “door knockers” shall be prepared by the Contractor and reviewed/approved by the City of Greenville. The notice shall show the correct date range, within reason, of the proposed paving. **Deviations from the agreed schedule will require re-notification of the public at least 24 hours prior to paving operations. Any asphalt produced and or installed for this contract without “door knockers” type notices being placed at affected residences at least 24 hours prior to paving operations shall be done at the expense of the contractor**

and at no cost to the City with no additional contract extension days being provided to the Contractor.

PSP-8. INSPECTIONS:

The Contractor shall clean all gutters, driveways and other contract items of all dirt, debris, tack and asphalt before final inspection will be made. The City will not inspect the improved areas until they are cleaned. Failure by the City to do final inspection if the areas are not cleaned shall not relieve the contractor of any liquidated damages.

INSPECTION SCHEDULE

1. Periodic inspections
2. End of project inspections (final punch list will be generated)
3. Final inspection is when all punch list items have been corrected
4. Inspection at the end of warranty period
5. Any additional inspections deemed necessary by the City.

PSP-9. CUTTING OF SHOULDERS:

Cut roadway shoulders back to the existing pavement edge prior to paving. The Contractor should include all costs associated with this item in the unit bid price for other items in the proposal.

PSP-10. BACKFILL OF SHOULDERS/ ROADWAY EDGES:

Where directed by the City Engineer or designee, the Contractor shall fill, grade, and prepare areas adjacent to the newly paved ribbon pavement surface with a topsoil type material. These areas will extend a minimum of two (2) feet and a maximum of three (3) feet from the edge of the new or existing asphalt edge and shall be properly prepared prior to seeding and mulching.

Shoulder construction shall immediately follow paving operations and in no case shall paving operations exceed shoulder operations by more than 5 (five) days without written permission of the City Engineer or designee. Failure to meet this requirement shall be cause to cease paving operations until it can be met at no cost to the City with no additional contract extension days being provided to the Contractor.

PSP-11. INCIDENTAL STONE BASE FOR DRIVEWAYS:

Place a minimum of compacted 4" incidental stone base where directed by the City Engineer or designee between the existing or new pavement edge and existing soil or marl driveways immediately after paving and do not have the paving operations exceed stone base placement by more than two (2) days. The final elevation of the compacted incidental stone base shall be flush with the final surface course elevation and flush with the existing soil or marl driveway surface creating a smooth transition.

PSP-12. CASTING ADJUSTMENTS WITHOUT ADJUSTMENT RINGS (WATER VALVES, CLEAN OUTS & CHANGING OUT NON-STANDARD TO STANDARD MOMUMENT CASTINGS:

All castings designated to be adjusted shall be completed **without** the use of adjustment rings. All castings adjusted for the paving operations must have asphalt "ramps" installed within 24 hours of final casting grade adjustment. Lighted barricades are to be placed over castings until asphalt "ramps" are installed. Monthly progress payments **will not** be processed if there are any ramps not installed in accordance with this paragraph. Asphalt "ramps" must be removed before placing final course of asphalt. Cost of asphalt used is incidental to the casting adjustment. If these provisions are not complied with, the castings shall be paid at ½ of the bid price and will not be paid until final payment. All castings shall be raised prior to final surface course placement. The Contractor shall be entirely responsible for all settlement over any and all trenches, excavations and areas where castings were adjusted at any time prior to the completion of his contract, and for a period of twelve (12) months after completion of his contract.

NCDOT approved releasing agents shall be used on the castings prior to paving. (FUEL OIL IS NOT PERMITTED).

A 10' straightedge shall be placed across all castings by the Contractor parallel to and perpendicular to the centerline of the final surface course after finish rolling has been completed. Any casting which exceed 1/8" (one eighth inch) variation from the surface being tested from the edge of the 10' straightedge to any one or more contact points of the adjusted casting shall be reset to finished grade by the Contractor at no cost to the City.

PSP-13. MIX DESIGN AND JOB MIX FORMULA FOR BITUMINOUS CONCRETE:

Asphalt mixture production and composition of Superpave mixes for this project shall be performed according to the most recent version of the North Carolina Department of Transportation Standard Specifications For Roads and Structures.

If Recycled Asphalt Pavement (RAP) and Recycled Asphalt Shingles (RAS) is to be proposed as part of the mix, the Contractor is allowed to use up to a maximum of 15% (RAP) and (RAS) by weight of the total recycled mixture and must comply with Article 610-3 of the North Carolina Department of Transportation Standard Specifications For Roads and Structures.

A homogenous, smooth surface is required and additional methods may be required by the City Engineer or designee to achieve this (i.e. the use of a rubber tired roller). The Contractor shall furnish to the City NCDOT approved bituminous concrete mix designs for each mix type, which shall include unit weights. These mix designs shall be furnished at the pre-construction conference. Should the materials to be used, or the mix design change, revised mix designs shall be furnished to and approved by the City Engineer prior to placement of any of the new mix.

It should be noted that the contract bid items do not distinguish between recycled mixes and standard virgin mixes. Payment for a given type of mix will be at the bid unit price for the mixture including binder, regardless of whether or not a recycled mixture is used

PSP-14. HAULING, PLACING AND FINISHING SURFACE COURSE

The mixture shall be transported from the mixing plant to the point of use in

vehicles which have tight, clean, smooth metal beds that have been sprayed with an approved release agent, or other approved material, to prevent the mixture from adhering to the beds. Excess release agent shall be removed prior to loading. Each load of mixture shall be fully covered with a canvas or other suitable material. All covers shall be so constructed and secured as to prevent the entrance of moisture and the rapid loss of temperature. A 3/8 to 5/8 inch diameter hole shall be provided on each side of the vehicle body near the center of the body and 6 inches above the bed of the vehicle for the purpose of inserting a thermometer. **The temperature of the mixture immediately prior to discharge from the hauling vehicle shall be within a tolerance of plus 15°F. to minus 25°F. of the specified job mix temperature**

Tack coat shall be applied in accordance with the provisions of Section 605 of NCDOT Standard Specifications for Roads and structures.

Mixtures produced simultaneously from different plant sources shall not be intermingled by hauling to the same paver on the roadway unless the mixtures are being produced from the same material sources and same job mix formula.

The asphalt mixture shall be spread and finished to the required grades, cross sections, thicknesses, and widths shown on the plans and typical sections and to uniform density and texture by a self-contained, power propelled paver. The paver shall be equipped and operated with a fully activated screed plate which is designed to be preheated for the full length whenever necessary. The screed shall be of adequate length to spread and finish the full uniform width travel lane being placed, unless otherwise permitted by the City Engineer. The use of strike off devices, either mechanically or manually operated, will not be permitted in spreading and finishing the mixture placed in the uniform width travel lane. The paver shall be equipped with a receiving hopper and an automatically controlled distribution system which is capable of uniformly maintaining a head of material in front of the full length of the screed including screed extensions. The screed unit shall be equipped with a sliding shoe attachment which will form a slope on the edge of the mat to prevent edge raveling when the mixture is compacted.

A string line shall be placed by the Contractor for the first lane of each layer of mixture placed to provide alignment control for the paver, except that a string line will not be required when the first layer is placed adjacent to a curb section.

Pavers shall be operated at forward speeds consistent with satisfactory laying of the mixture, plant production, and material delivery in order to provide a uniform and continuous lay down operation. Coordination of the paving operation and the loading operation shall be adjusted to maintain an adequate amount of asphalt mixture in the paver hopper. The paver hopper shall not be allowed to become empty between loads. Should unevenness of texture, tearing, segregation, or shoving occur during the paving operation due to unsatisfactory methods or equipment, the Contractor shall immediately take such action as may be necessary to correct such unsatisfactory work. **Throwing back excessive material will not be permitted.**

When placing adjacent lanes of the final surface course, the paver shall be equipped with a joint matching device which will automatically provide control of the depth of the mixture being placed so that, when compacted, it will match the depth of the existing lane.

The City Engineer will waive the requirement for automatic cross-slope controls in areas where the use of such equipment is impractical due to irregular cross section or shape. Manual operation will be permitted in the construction of irregularly shaped and minor areas. In the case of malfunction of the automatic screed control equipment, the Contractor may manually operate the paver for the remainder of the work day provided this method of operation produces acceptable results. Work shall not be resumed thereafter until the automatic system is operative.

The City Engineer will waive the requirement for use of pavers for spreading and finishing where irregularities or obstacles make their use impractical. The Contractor shall spread, rake, and lute the mixture by hand methods in these areas.

Roadway paving shall be as continuous as possible. Intersections, auxiliary lanes, and other irregular areas shall be paved after the main line roadway has been paved, unless otherwise approved by the City Engineer.

The finished surface of the pavement shall be smooth and true to the established crown and grade. Any defective places shall be corrected after the first roller pass. The importance of staying within the surface tolerance for smoothness cannot be overemphasized. The surface shall be checked by the Contractor and the City Inspector to ensure that the joints and pavement surface meet all requirements by the use of a ten-foot straight edge (**straight edge to be supplied by paving contractor, and no paving will be allowed without straight edge on site**) applied parallel and perpendicular to the center of the pavement and any place or areas that vary more than one-eighth of an inch as measured from the bottom of the straight edge to the surface shall be corrected as specified.

PSP-15. EQUIPMENT:

All vehicles, trucks, equipment tools, and machines used in the performance of the work covered by this section shall be subject to the approval of the City Engineer or designee and shall be maintained in satisfactory working condition at all times. **ALL vehicles and equipment capable of a reverse operation MUST be equipped with a working backup alarm or will be rejected from this operation.**

The contractor must have a minimum of four (4) material delivery trucks in operation at all times. If this requirement is not met the contractor will “stop work” until corrections have been made. There will be no extension of time to the contract for delay.

PSP-16. VIBRATING WHEEL ROLLERS:

Vibrating wheel rollers shall consist of a self-propelled drum wheel roller having a number and weight of rollers sufficient to compact asphalt to the required density and having a vibratory motor unit capable of causing an effective vibration of asphalt being compacted.

PSP-17. RUBBER TIRED ROLLERS:

The rubber tired rollers shall consist of two axles on which are mounted not less than 9 pneumatic tired wheels in such a manner that a rear group of tires will not follow in the tracks

of the forward group. The axles shall be mounted in a rigid frame provided with a loading platform or body suitable for ballast loading. The tires shall be uniformly inflated and shall be weighted as per manufacturer recommendations. The tractor or other towing equipment shall also be pneumatic tired.

PSP-18. PAVEMENT MARKINGS

The Contractor prior to the placement of any pavement to ensure the ability to re-establish the markings to their pre-paving condition will mark streets that have existing striping.

For all two-lane, two-way facilities, place all permanent centerline markings, railroad and school symbols within 7 calendar days after they have been obliterated by the resurfacing operation. Place all edge lines and other symbols within 15 calendar days after they have been obliterated by the resurfacing operation. If this action cannot be done within the allotted time, then the use of temporary paint as provided by the bid form will be used until Thermoplastic Contractors can be scheduled.

For all multi-lane facilities, at the end of each day's operation the contractor shall provide temporary paint pavement markings to facilitate normal traffic operations after milling or resurfacing has obliterated existing markings. This work shall be paid according to the bid form temporary paint line items.

PSP-19. WEATHER LIMITATIONS:

Asphalt mixtures shall not be produced or placed during rainy weather, when the sub-grade or base course is frozen, or when the moisture on the surface to be paved would prevent proper bond. Asphalt materials shall not be placed when the air temperature measured in the shade away from artificial heat at the location of the paving operation and road surface temperature is less than the temperatures shown in the chart below.

<u>Material</u>	<u>Thickness of Layer Being Placed</u>	<u>Air Temperature</u>
Asphalt Concrete Base Course, Type HB; Asphalt Concrete Binder Course; or Sand Asphalt Base Course	1 1/2" or greater	35°F.
Asphalt Concrete Binder Course, or Sand Asphalt Base Course	Less than 1 1/2"	40°F.
Surface Course Materials	1" or greater	40°F.
Surface Course Materials	Less than 1"	50°F.

PSP-20. CLEAN UP AND RESTORATION:

The safety and preservation of adequate access for residents is a critical aspect of this project. The Contractor, during the course of his work, shall maintain and clean up the construction area including but not limited to removal of all debris, excess asphalt, fabric packaging, replacement or restoration of damaged railing, mailboxes, access, public safety items, excess soil and miscellaneous items. The Contractor shall make the work area safe at the end of each day. All marl or soil driveways adjacent to ribbon pavement shall have ABC marl installed immediately after paving operations are completed.

PSP-21. QUALITY CONTROL:

Streets without curb shall have the centerline established prior to paving street by string line or paint method. Paving operator will use established centerline and not edge of street to keep paving machine on a straight, predetermined line of travel.

The City Inspector prior to tack placement shall inspect all streets for proper cleanliness.

The City Inspector shall ensure that all areas are properly cleaned and tacked uniformly before the final surface course is placed.

Certified computer generated delivery tickets are required for all tack coat materials and asphalt.

Unless curb sections are to be overlaid, a maximum of 1.5" compacted asphalt will be placed on the edge of the gutter or a depth determined by the City Engineer or designee.

All paver "Jackmen" will be required to have a measuring device to check asphalt depth.

Rolling of the longitudinal joint should be done immediately behind the paving operation

Heavy equipment or rollers should not be permitted to stand on the finished surface until it has thoroughly rolled of set.

All tack over spray and or excess asphalt shall be removed from all curb sections, driveways, sidewalks and street castings. **(FUEL OIL IS NOT PERMITTED)**. All casting must be fully cleaned with NCDOT approved release agents and no fluid leaks from trucks or equipment will be permitted.

PSP-22. APPLICATION OF TACK COAT:

Tack coat shall be applied only when the surface to be treated is clean, sufficiently dry, and the atmospheric temperature in the shade away from artificial heat is 40 degrees Fahrenheit or more. The City Inspector would deem this condition acceptable. Tack coat shall not be applied when the weather is foggy or rainy.

The tack coat shall be applied far enough ahead of the paving operation to allow it sufficient time to cure before pavement is placed. However, no more tack shall be applied than can be covered during the same day's operations. Considerations must also be given to traffic conditions, project location, proximity to business or residential areas, weather, potential for tracking, etc., when determining the length of pavement to be tacked ahead of the paving operation.

PSP-23. DRIVEWAY TIE-IN:

All driveways shall have a smooth taper from the new surface course finished elevation to the existing driveway elevation.

PSP-24. CLEANING OF TRUCK BEDS:

Cleaning truck beds of excess asphalt in front of the paver shall not be permitted under any condition

PUBLIC WORKS

To: All Interested Bidders and plan holders
From: Brandon Rountree, Civil Engineer I
RE: 2019 Street Resurfacing Project, PWD-2019-003
Addendum #1
Date: April 1, 2019

The following items clarify, add to, delete from and/or otherwise change and supersede information previously issued to you in the Bid Documents for the above-referenced project. As such, said items shall be considered part of the contract and receipt of this addendum shall be acknowledged appropriately in the bid package. Please review the following items carefully and adjust your proposal accordingly.

Pre-bid Minutes/Clarifications/Follow-up:

1. **Effective with this addendum, the bid opening date has been adjusted to Wednesday, April 10, 2019, at 2:00 PM.** Location remains the same.
2. See Attachment 1, pre-bid meeting minutes, which as part of this addendum shall be considered part of the contract.
3. See pre-bid minutes, Item 3(e): correction on the agenda from 90 calendar days to 120 days like stated in the contract.
4. See pre-bid minutes, Item 3(g): If the 10th street connector is finished in time according to schedule and it reduces the traffic on 14th street then the contractor and engineer may have a discussion on changing the 9am-4pm working hours. For purposes of bidding, contractors should consider working hours as shown.
5. See pre-bid minutes, Item 3(i): On-street parking must be given a 72-hour notice with signage. If this is the case then any car on the street during construction may be towed. The contractor will let the engineer know to get the car towed.
6. See pre-bid minutes, Item 3(j): PSP-5 is clarified to mean initial placement of asphalt, project-wide, not started prior to 1:00 PM shall be suspended for the day. This means the contractor shall not commence paving operations for a given day after 1:00 PM if no other asphalt has been placed on the project that day. Contractor was notified to not start a new map without completing entire map within the working hours limit.

Changes/Additions to Bid List and Specifications:

1. No changes/additions were added to the bid list or specification at the time of the pre-bid meeting

Any questions regarding this Addendum should be directed to Mr. Brandon Rountree, at telephone 252-329-4474 or email at brountree@greenvillenc.gov.

Attachment 1

To: Pre-Bid Conference Attendees and Plan holders

From: Brandon Rountree, CE I
City of Greenville PWD

Subject: **2019 Street Resurfacing Project, Pre-bid Minutes**

Date: April 1, 2019

On Wednesday, March 27, 2019 at 2:00 p.m., a Pre-bid conference for the referenced project was held at the Public Works Department Conference Room at 1500 Beatty Street, Greenville, NC. Those in attendance were as follows:

Lynn Raynor - COG
Scott Godefroy - COG
Brandon Rountree - COG
Denisha Harris - COG
Ferdinand Rouse - COG
Craig Batchelor- Barnhill Contracting
Paul Heatherington - S. T. Wooten
Jim Wiggins - Rose Brothers Paving

The following items were discussed during the meeting.

MEETING ITEMS

1. Welcome
 - a. Attendance Sheet
 - b. **Pre-bid conference not mandatory**
 - c. Introductions
2. Legal Requirements
 - a. Bonds/Insurance Certificates - Bid Bond, Payment/Performance Bonds/Insurance Certificate
 - b. MWBE Requirements/**submittal with Bids** - all MWBE subcontractors must be HUB certified, and the City has separate goals for MBE and WBE which must be met separately. Incomplete paperwork could result in rejection of bid. All documentation of contact with MWBE subcontractors must be kept for review should the bidder not meet the goals. For assistance or more information, contact Ferdinand Rouse, MWBE Coordinator, at 252-329-4462 or frouse@greenvillenc.gov.
3. Project Data
 - a. Description - The Street Resurfacing work will consist of full & edge milling of approximately 76,715 square yards of existing asphalt pavement, placing approximately 11,250 tons of Asphalt Concrete Surface Course, Type S 9.5C, 3,515 tons of Asphalt

Concrete Base repairs/patching, ADA improvements, curb and gutter repairs, and making necessary adjustments to valves and manholes. The Project also includes the placement of thermoplastic & temporary pavement markings on several street. The Contractor will install improvements on City of Greenville and NCDOT Rights of Way and will be subject to their associated standards and specifications.

- b. Milling – note some streets are identified to be 4’ edge milling with an * on street list.
- c. Liquidated Damages - **\$500/day**.
- d. Contract Award – Lowest responsive responsible bidder. Lowest bidder will be required to provide references and financial records, which the City will check prior to moving forward with award. See page IB-1, paragraph (3) in the Instructions to Bidders.
- e. Contract Completion Time is as follows:
 - Base Bid – **120 (corrected from 90 on agenda) Calendar Days from Notice to Proceed date.**
- f. Contractor is responsible for any necessary surveying, including documentation of existing pavement markings prior to obliteration.
- g. Working Hours:
 - Normal Working Hours are 8am-5pm. Bidders should bid the project for all work to be completed during these times due to the proximity to residences, except as noted below.
 - 14th Street working hours will be adjusted to 9am-4pm due to the amount of traffic for commuting for work.
 - PSP-1. Jefferson Drive and Cedar Lane must be scheduled at end of Base Bid work.
 - If the 10th street connector is finished in time according to schedule and it reduces the traffic on 14th street then the contractor and engineer may have a discussion on changing the 9am-4pm working hours. For purposes of bidding, contractors should consider working hours as shown.
- h. Contractor shall provide 48 hour notice to the City cancelling nighttime operations. Failure to provide this notice shall require the Contractor to reimburse the City for an 8-hour workday at the Inspector’s pay rate, including fringe benefits, and shall be deducted on the next partial pay estimate. Exception to this shall be cancellation of nighttime work due to inclement weather as outlined in the contract documents. Hourly Inspector rate is \$40/hr.
- i. PSP – 2: Most streets have on-street parking for residents. Streets with on-street parking that are intended to be milled and resurfaced must be signed “No Parking” at least 72 hours in advance of work commencing. It will be the responsibility of the contractor to obtain and install these signs according to his schedule. Contact information for Traffic Services can be found in PSP-2.
If this is the case then any car on the street during construction may be towed. The contractor will let the engineer know to get the car towed.
- j. PSP – 5:
 - For daytime operations, any placement of asphalt not started prior to 1:00 PM shall be suspended for the day.

- Initial placement of asphalt, project-wide, not started prior to 1:00 PM shall be suspended for the day. This means the contractor shall not commence paving operations for a given day after 1:00 PM if no other asphalt has been placed on the project that day. Contractor was notified to not start a new map without completing entire map within the working hours limit.
 - k. PSP – 6: Public Relations. Contractor shall place “door knockers” at affected residences at least 24 hours in advance of paving operations.
 - l. An addendum will be sent out with pre-bid minutes and any requests for information received.
 - m. Traffic Control – reasonable access to residences and businesses must be maintained. Contractor will be required to provide traffic control plan/construction phasing for each street being resurfaced at the time of the pre-construction meeting.
 - n. **Bid date –Wednesday, April 10th, 2019 at 2:00 PM, 1500 Beatty St. Be sure to include all required documents with bids. (Bid Form, Bid Security, Non-Collusion Affidavit, MWBE documentation).**
The Bid date was changed from April 9th to April 10th due to scheduling conflicts.
4. Contact – Brandon Rountree, CE I, 252-329-4474, BRountree@grenvillenc.gov
Ferdinand Rouse, MWBE Coordinator, 252-329-4462, frouse@grenvillenc.gov
5. Questions



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Contract Award for the Pavement Condition Survey

Explanation: **Abstract:** The City of Greenville has received response to a publicly advertised Request for Proposals (RFP) for services to update the 2014 Pavement Condition Survey. City staff has identified and negotiated a scope of work and contract with Transmap Engineering, PLLC to perform professional service work to update the current Pavement Condition Survey and expand the survey to additional areas within the Greenville Urbanized Area (UZA).

Explanation: The City of Greenville Public Works Department is responsible for maintenance of all City-maintained streets. As of 2019, the City is responsible for maintaining just over 273 centerline miles of streets, consisting of dual and multi-lane roadways. In 2013, it was determined that to continue to identify and strategically improve the existing City-maintained street network, a comprehensive survey of pavement conditions was necessary. This survey allowed City staff and elected officials to use data to quantifiably determine the most effective and strategic method to improve City roadways.

As with the survey completed in 2014, the planned update is intended to be utilized as a tool to develop a five-year resurfacing plan that identifies and utilizes various street maintenance methods (crack sealing, spot full-depth repairs, micro-surfacing, resurfacing, etc.) while also identifying additional innovative solutions to extend the life of pavement while minimizing costs and making efficient use of available funds.

This project will incorporate locally maintained roadways from the City of Greenville, Town of Winterville, Town of Ayden, and Village of Simpson as well as select subdivision roads within Pitt County to be evaluated against NCDOT standards for maintenance. As Lead Planning Agency (LPA) of the Greenville Urban Area Metropolitan Planning Organization (GUAMPO), the City is responsible for awarding and administering GUAMPO contracts and projects. This project will be cost-shared among the above-referenced jurisdictions per the GUAMPO

Memorandum of Understanding which establishes the MPO's cost-share responsibility of each jurisdiction.

On January 18, 2019, City staff released a Request for Proposals (RFP) to solicit professional service proposals from qualified vendors to perform an update to the 2014 Pavement Condition Survey and expand it to identified roadways not previously surveyed. On February 19, 2019, the City received five proposals, of which four were found to be responsive. A Selection Committee of staff reviewed the qualified proposals and evaluated them based on the criteria outlined in the RFP. After evaluating all proposals, it was determined that Transmap Engineering, PLLC was the most responsive proposal, and they were selected as the preferred vendor.

Fiscal Note:

Funding for this project will be provided through the Greenville Urban Area Metropolitan Planning Organization's (MPO) Transportation Planning funds and is subject to an 80/20 split with the local municipalities cost-sharing the 20% local match. The full contract cost is not to exceed \$224,919.11 with the City's costs, after NCDOT's reimbursement, not to exceed \$28,582.73.

Recommendation:

City Council award a contract for professional services to complete the 2019 Pavement Condition Survey to Transmap Engineering, PLLC, in an amount not to exceed \$224,919.11.

ATTACHMENTS:

- ▣ Pavement Condition Survey - Contract

Roadway Inventory. Asset Management. Integration.



Transmap Corporation
5030 Transamerica Drive
Columbus, Ohio 43228

Date: 4/8/19

To:

Ryan Purtle
Greenville MPO
Public Works/Engineering

From:

Craig Schorling, GISP
Vice President
Transmap Corporation
(614) 537-6297 (mobile)

Transmittal:

- (5) original contract copies signed by Transmap

Transmap Engineering PLLC
Vendor Number:

Contract # _____

City of Greenville, North Carolina

PROFESSIONAL SERVICES AGREEMENT

Pavement Condition Survey for Locally Maintained Roadways

THIS AGREEMENT, made and entered into this DATE _____, by and between the CITY OF GREENVILLE, NORTH CAROLINA (hereinafter called the "CITY") and Transmap Engineering PLLC (hereinafter called the "CONSULTANT" or "Prime Consultant"), whose primary offices are located at 5030 Transamerica Drive, Columbus, Ohio 43228, United States.

GENERAL RECITALS

WITNESSETH:

WHEREAS, the CITY desires the assistance of a CONSULTANT in the performance of certain professional services; and

WHEREAS, the CONSULTANT has exhibited evidence of experience, ability, competence, and reputation to perform such professional services; and

WHEREAS, the CITY, as lead planning agency of the Greenville Urban Area Metropolitan Planning Organization (MPO), will act as lead agency for this agreement pertaining to work for the City of Greenville, Towns of Winterville and Ayden, Village of Simpson and Pitt County pursuant to the MPO's executed Memorandum of Understanding;

NOW THEREFORE, the CITY and the CONSULTANT, for consideration hereinafter stipulated, mutually agree as follows:

The CONSULTANT agrees to perform the assigned professional services on an as needed basis.

ARTICLE I - SCOPE OF WORK

GENERAL DESCRIPTION

The Scope of Services sets forth the services, activities and responsibilities that will be performed by Transmap and the Deliverables that will be provided by the Transmap pursuant to the Agreement. The terms contained in this Scope of Services shall have the meanings set forth in the Agreement unless otherwise defined in the Scope of Services.

The following tasks set forth in this Scope of Services and the services, activities, responsibilities, and Deliverables that will be performed or provided by Transmap in accordance with the Agreement are as follows:

PROJECT SETUP AND ADMINISTRATION

PROJECT SET-UP

Transmap's Project Manager shall set-up the accounting system and filing system for the project. In addition, the project manager shall prepare the initial project driving maps that will be used during ON-SIGHT data collection. The Project Manager will be in charge of the project's schedule and milestones. The MPO must provide Transmap with a point of contact for the project. In order for the project ON-SIGHT mapping to get started, the MPO will be required to sign off on the official drive coded centerline maps for the project.

EXTERNAL KICK-OFF MEETING

Transmap shall attend and chair a project kickoff meeting with MPO staff to introduce the project team members and their roles and responsibilities. During the meeting the team will discuss the overall project, project plans, MPO goals, scope, schedule and driving maps. In preparation for the meeting, Transmap will prepare an agenda and provide copies of all the pertinent project documents to all attendees. At the completion of the meeting, Transmap will prepare meeting minutes to document the key meeting items and distribute a PDF to all attendees.

PROJECT COORDINATION MEETINGS

During the project, Transmap will hold brief internal bi-weekly coordination meetings to discuss the status of the project activities, identify potential issues and review the scope, upcoming milestones and budget status. Project reports will be sent monthly via email. This is explained in the project management section of the Scope.

TASK 1 PAVEMENT CONDITION SURVEY UPDATE

1A MOBILIZATION AND ON-SIGHT MOBILE MAPPING

Transmap will mobilize our data collection vehicle and personnel to the project area. Transmap will spend a day testing the system and then go live with collection. Transmap will notify the local authorities and the MPO that we will be in the area. Transmap will send out an authority notice.

Transmap will perform a centerline review of the MPO's GIS centerline file that will be provided by the MPO prior to any data collection.

Transmap will drive all roads identified in the project area using our mapping vehicle. The vehicle has a Panoramic imaging system. Along with the image system, the Transmap vehicle will also be using the Laser Crack Measurement System (LCMS) to capture pavement data on every road in the project area. The LCMS continuously captures detailed surface conditions while in motion. The vehicle is also equipped with ground-based LiDAR. The point cloud LiDAR laser gives real-time positioning of assets within the roadways. Point cloud data is useful

for measuring heights, offsets and intensity values of assets. The vehicle has a robust GPS/INS solution that has dramatically improved accuracy and efficiency.

Transmap will drive our vehicle along every road identified in the centerline GIS file provided by the MPO. The image database will be collected for each roadway specified by the MPO in both directions (one-way streets and alleys excluded), enabling a full 360-degree view of each roadway in the network. The vehicle will make multiple passes on roads that have 3 or more travel lanes in one direction.

Transmap will QC the images obtained by the mapping vehicle to ensure that they are satisfactory and to meet the objective of the right-of-way asset and pavement inventory project. To ensure the highest quality images, image capture activities will not be performed during low-light or adverse weather conditions.

The specified route network will be compared against that of which has been imaged to ensure that no route segments have been overlooked. Missing route segments will be re-driven. Route segments may not be imaged when they are not accessible due to construction, temporary or permanent closures, or they may not exist as indicated in the supplied base data sets (i.e. – paper streets).

1B ADVANCED INSPECTIONS

Transmap's ON-SIGHT vehicle is equipped with the newest Laser Crack Measurement System (LCMS), which uses laser line projectors, high speed cameras, and advanced optics to acquire high resolution 2D and 3D profiles of the road. The LCMS captures surface conditions up to a 4m (13.1 foot) width and is broken up in 10m lengths. Transmap will drive all through lanes in both directions for a complete view of all surface distresses and will deliver a complete Crack Map of surface distress data. A Crack Map shows the cracking of a road over a .jpeg image. Transmap's Crack Map images can be viewed in the MPO's GIS as a MrSID layer.

1C NETWORK SETUP AND REVIEW

Transmap will create the unique network that is required for the pavement management system (MicroPAVER). This process defines the road network as a pavement network. From the basemap, Transmap will create the network, branches, sections, and samples that will be used as the foundation for the Pavement Management System. During this task, Transmap will integrate any pertinent centerline data that the MPO might want in MicroPAVER. Transmap will start with the existing network that is already loaded in MicroPAVER and add in any road segments that have been added since the 2013 project. Transmap understands that the MPO is using a new work order system since the 2013 inspections. In order to maintain the correct segment ID's any changed ID's from the 2013 data will have to be updated in MicroPAVER.

1D ASTM D6433 PAVEMENT INSPECTION

Transmap works closely with APWA to ensure pavement data is collected and implemented using ASTM standards (D6433). Transmap uses the US Army Corps of Engineers Paver Distress Identification Manual as a guideline for pavement inspections. Pavement conditions for each segment will be documented through the use of a digital pavement condition rating form designed to capture the distress type, severity, and quantity directly within the established pavement condition data mode. Through the use of our new LCMS system and our walkout

QA/QC, Transmap can measure widths, lengths, and square footage of all surface distress data.

Transmap will collect distress information along all project miles of asphalt/concrete roadway. Surface distress types will be captured and interpreted from the LCMS system for designated centerline miles of roadway driven by the Transmap vehicle.

The following table reflects the distress types that Transmap will collect for the project:

Asphalt Pavement Distresses	Concrete Collection
Distress	Distress
Alligator Cracking	Slab Count
Potholes	Slab Width
Transverse/Longitudinal Cracking	Slab Length
Edge Cracking	Corner Breaks
Weathering	Patching
Raveling	Divided Slab
Block Cracking	Linear Cracking
Patching & Utility Cut Patching	Popouts
Bumps & Sags	Joint Seal Damage
Depressions	Durability Cracking
Corrugations	Corner Spalling
Rutting	Joint Spalling
Bleeding	Shrinkage Cracks

Pavement Distress Data QA/QC

Transmap has a 20% QA/QC methodology set up in the office and a 10% method set up for boots-on-the-ground. The in-office QA/QC consists of selecting 20% of all valid samples (samples that are concrete or asphalt), some at random and some using LCMS Crack Intelligence, and verifying sample areas and distresses measured in these samples. The verification in the office is done with our internal software by a manger.

The field QA/QC “boots-on-the-ground” occurs after all of the pavement network and samples are loaded into MicroPAVER to produce a PCI value for each segment. The purpose of field QA/QC is to verify that the distresses measured via images in the office align with what actually exists in the pavement. Transmap will select random samples to verify, while also focusing on

roads that exhibit notable deviations from segment to segment. After the field QA/QC, Transmap updates the samples with any changes found in the field and re-loads MicroPAVER to produce the final PCI values for each roadway segment. Transmap follows ASTM D6433 methods of measuring distress data. Both the office and field QA/QC are designed to check for any inconsistencies with the analyzed samples.

1E GIS INTEGRATION / WORK HISTORY

After the final PCI data is created, Transmap will integrate the PCI data with the MPO's centerline file. Transmap will perform standard work history updates from the supplied GIS data from the MPO into MicroPAVER. Level of effort is based on the amount of data that the MPO gives to Transmap and the format that the data is in.

1F MICROPAVER LOAD

Transmap has written scripts for automated loading of the MPO's centerline file and distress data into MicroPAVER. Transmap loads MicroPAVER twice during the project. Once the initial pavement analysis is complete, Transmap will run results through MicroPAVER to establish a raw Pavement Condition Index (PCI). Transmap can deliver the raw PCI values but does not recommend using these results for final budgets. After the initial load, Transmap will perform our field verification walkout. After the walkout, distress data may be updated and re-run through MicroPAVER to establish a final PCI for delivery. The second time will be after the walkout is completed.

1G PAVEMENT MANAGEMENT PRACTICE DEFINITION (BOOT CAMP)

The Boot Camp is customized for every client and is designed as a fact-finding meeting on-site with the client. The Boot Camp gives the client and Transmap an understanding about which pavement reports the client needs and which legacy data Transmap needs to collect to achieve these reports.

Transmap has successfully managed Boot Camps for many customers. This process is considered necessary in establishing a proper PMS project from the beginning. During the Boot Camp, we will review any current maintenance and rehabilitation (M&R) practices that the MPO is using. The main focus will be to gather information on M&R practices and pricing. Transmap will suggest some preventive treatments that might best fit the project area and will use this information to gather regional cost data for the alternative methods of pavement practices. The Boot Camp will be the foundation for the reporting task.

The following list represents examples of which information Transmap will discuss in the Boot Camp:

- **Functional class** - The class or group of roads that the road belongs to. MicroPAVER uses the following classes: Principal, Arterial, Collector, Industrial, Residential, Primary, Secondary, and Tertiary
- **Traffic count data**
- **Budgets** - Current pavement rehabilitation budgets
- **Material costs** - Typical cost of materials for rehabilitation
- **M&R practices** - Types of rehabilitation or reconstruction practices the MPO is performing. Some examples are: Microsurfacing, Cape Seals, Slurry Seals, Hot-In-Place Recycling, etc.
- **ArcGIS Online site** - Transmap media site. Transmap will host the geodatabase data in the cloud. The site is created to assist in the tracking of the project deliverables.

- **Construction dates** - Approximate or actual major M&R dates per roadway segment
- **Family grouping** - Information on how the MPO wants roads to be grouped in order to have the correct deterioration model for each family

Transmap will provide the MPO with a turn-key MicroPAVER solution. From the information provided in the Boot Camp, we will populate PAVER with the proper costs, so the MPO can run their own M&R scenarios once they are trained.

1H PAVEMENT REPORTING

Reports should not only be words on paper but large maps with multiple colors that depict different budget scenarios. It is this style that has supported many Transmap customers when requesting budgets that can achieve the standard level of M&R required by their constituents.

Transmap will have an understanding of which reports the MPO needs from the Boot Camp. Transmap will need information on maintenance and rehabilitation activities. This information, along with construction dates, will be loaded into MicroPAVER to help produce candidate maps that will predict what future PCI results will look like in a “do nothing” scenario. These reports will allow the MPO to see how creating logical candidate lists and maps will help in evaluating treatments based on PCI and deterioration models instead of windshield studies or resident phone calls. The recommendations come from MicroPAVER and can be modified to fit the MPO’s needs.

Transmap has the ability to link the MicroPAVER data to the digital centerline file to produce maps of various maintenance scenarios. For example, PCI maps can be broken out based on roadway classification to evaluate how traffic count affects PCI value. Once all maintenance practices and costs have been determined, Transmap can start building reports over time based on how long certain treatments extend the life of the pavement. Transmap prefers to have different reporting styles and will not simply produce standard text reports. All reporting data will be integrated to the centerline file to produce plots for the MPO review. Standard delivery for reporting is listed below:

- Overall project report (summary of findings)
- Branch condition report
- Section condition report
- Distress report
- PCI maps
- Rutting maps
- Crack Intel maps
- M&R recommended 5-year work plan (based on current budget and recommended budget)
- Recommended treatments for each segment
- Maps and spreadsheets of 5-year work plan

Once the reporting is complete and approved by MPO, Transmap can assist in the creation of a council presentation. Transmap can have a senior manager present the findings to council at the request of the MPO.

1I PROJECT MANAGEMENT

Transmap will create project management reports, project milestones, project goals and keep the MPO informed on the progress of the project. Transmap will provide monthly status reports

and maps. Most project management will be done remotely except for the kick-off meeting. Transmap will utilize the web, email and voice for most project management tasks. The project manager is also responsible for the allocation of staff for a timely completion of the project. The project manager reports to the account manager and project principal on the status of the project.

1J FWD/GPR RECOMMENDATIONS

Once the Pavement Condition Index data and reporting is delivered to Greenville, Transmap will sit with Greenville to determine what roads would benefit from FWD or GPR inspections.

TASK 2 MICROPAVER

2A ON-SITE TRAINING

Transmap will provide up to 3 employees with a 2-day, on-site training of MicroPAVER 1. This training will cover the basic MicroPAVER functions of the advanced reporting solutions within MicroPAVER. The training will be performed on the MPO's actual data that is collected during the project. MicroPAVER 1 training will occur after the project data has been loaded into MicroPAVER.

The MPO will supply a computer for each trainee and the room where the training will take place. Transmap will install temporary MicroPAVER licenses on each computer. The class will cover:

1. Overview of PAVER - Selection tools and drop downs
2. Inventory - Network, surface type, user defined fields
3. Work Tracking - History, construction dates
4. PCI Field Inspection/Data Entry
5. Standard Paver Reports
6. Prediction Modeling
7. Condition Analysis
8. System Tables
9. Work Planning

2B MICROPAVER SOFTWARE

Transmap will purchase one MicroPAVER software license for the MPO from APWA. The license will be in the name of the MPO. The license comes with two desktop installations and a year of support from APWA. Transmap will purchase the newest version of MicroPAVER available at the time of purchase. Transmap will support the MPO on MicroPAVER questions via web meetings and phone calls.

TASK 3 ASSETS

3A ASSETS

The following table represents the point and linear assets requested by the MPO that will be collected on the roads within the project area, using our ON-SIGHT imagery and ground-based LiDAR. The assets will be based on XY coordinates and will be delivered in an Esri

geodatabase, XY coordinates will be in State Plane Coordinate System. Standard attribute data will be collected for each asset. Linear assets are measured by a 'Start' and 'Stop' XY coordinate where the actual asset starts and stops.

Asset	Attributes
Linear Asset - Curbs	Street name, unique ID, unique ID (street centerline), type
Linear Asset - Ditches	Street name, unique ID, unique ID (street centerline)
Linear Asset - Striping	Street name, unique ID, unique ID (street centerline), type, color
Linear Asset - Shoulders	Street name, unique ID, unique ID (street centerline), width, condition
Linear Asset - Sidewalks	Street name, unique ID, unique ID (street centerline), average width, surface type
Point Asset – Drop/Curb Inlets	Street name, unique ID, unique ID (street centerline)
Point Asset - Manholes	Street name, unique ID, unique ID (street centerline)
Point Asset - Markings	Street name, unique ID, unique ID (street centerline), type, color
Point Asset - Bridges	Street name, unique ID, unique ID (street centerline)
Point Asset - ADA Ramps	Street name, unique ID, unique ID (street centerline), truncated dome (yes,no), color, condition?
Point Asset - Culverts	Street name, unique ID, unique ID (street centerline)

3B GIS INTEGRATION

Transmap will ensure that all collected asset attribute data is formatted in an Esri geodatabase. The attribute data will have the intelligent information that is currently on the MPO's GIS centerline file (street name, street ID)

3C PROJECT MANAGEMENT

Transmap will create project management reports, project milestones, project goals and keep the MPO informed on the progress of the project. Transmap will provide monthly status reports and maps. Most project management will be done remotely except for the kick-off meeting. Transmap will utilize the web, email and voice for most project management tasks. The project manager is also responsible for the allocation of staff for a timely completion of the project. The project manager reports to the account manager and project principal on the status of the project.

DELIVERABLES

Project Setup and Administration

- External Kick-off meeting agenda, sign-in sheet and minutes

- Monthly invoices and status reports

SUMMARY

TASK 1 PAVEMENT CONDITION SURVEY UPDATE

1A - Mobilization and ON-SIGHT Mobile Mapping	Transmap will deliver the van image, which is a geodatabase of the vehicle path with an image link, to the Transmap media site. A drive-coded geodatabase of the centerline file is also included. Transmap will deliver all images data on an internal SATA hard drive. A download cable (USB to SATA) can be provided.
1B - Advanced Inspections	The data acquired from the LCMS will be processed loaded into MicroPAVER. The following maps will be delivered to the MPO: Rut Maps, Crack Intel maps. The MPO will also receive a Crack Intel Report. Transmap will deliver MrSID files of the crack images.
1C - Network Setup and Review	Transmap will deliver a pavement centerline with the network information as attributes. This data will also reside in MicroPAVER.
1D - Pavement Inspections	Distress data will be part of the distress report that is part of the reporting task. All inspections will be loaded into MicroPAVER.
1E - GIS Integration	Pavement centerline will be delivered with network and PCI values. Historic data will be loaded into MicroPAVER. All geodatabase and imagery data will be delivered in NAD 1983 HARN State Plane North Carolina Feet coordinate system.
1F - MicroPAVER Load	Transmap will deliver a complete .e7x export file from MicroPAVER.
1G - Pavement Management Practice Definition (Boot Camp)	Transmap will be on-site at the MPO for the boot camp. We will prepare an agenda and a meeting recap will be delivered to the MPO.
1H - Reporting	Transmap will post all reporting in the cloud so the MPO can review. After the MPO review, Transmap will print the official report and supporting maps for delivery.
1I - Project Management	Transmap will supply the MPO with monthly project status reports along with maps and ArcGIS Online tracking.
1J - FWD/GPR Recommendations	Once the Pavement Condition Index data and reporting is delivered to MPO, Transmap will sit with Greenville to determine what roads would benefit from FWD or GPR inspections.

TASK 2 MICROPAVER

2A - On-Site Training	Transmap will supply 3 temporary MicroPAVER licenses for training purposes. Transmap will also supply each person with a printed training manual.
2B - MicroPAVER Software	Transmap will purchase one copy of the newest version of MicroPAVER at the time of purchase. The license will be in the MPO's name and will be a download. The license comes with 2 installations.

TASK 3 ASSETS

3A - Assets	Standard geodatabase delivery will be delivered in NAD 1983 HARN State Plane North Carolina Feet coordinate system.
3B - GIS Integration	Transmap will link all asset data to the MPO centerline (unique ID and road name)
3C - Project Management	Transmap will supply the MPO with monthly project status reports along with maps and ArcGIS Online tracking.

I.B. Subconsultant Utilization

The CONSULTANT shall only utilize subconsultants and/or subfirms that are prequalified by the North Carolina Department of Transportation to perform the specified professional or specialized services needed.

The CONSULTANT shall utilize the subconsultant(s) and/or subfirm(s) as proposed in the CONSULTANT'S Letter of Interest (LOI) or project proposal to the CITY regarding the requested services. The CONSULTANT shall indicate the proposed utilization (CONSULTANT name and percentage) for both the Prime Consultant and any/all subconsultant(s) firms in the LOI on the appropriate FORM RS-2(s), as included in APPENDIX B.

The CONSULTANT shall insure that any/all subconsultant(s) or subfirms(s) shall comply with the terms and conditions set forth in this AGREEMENT.

I.C. Subcontracts

- I.C.1. The CONSULTANT and/or subconsultant will not sublet any portion of the work covered by this AGREEMENT without prior written approval by the CITY.
- I.C.2. The CONSULTANT will be responsible for the schedule of any work sublet to others so as to assure the overall schedule of the project is maintained.
- I.C.3. The CONSULTANT will be responsible for the completeness, accuracy and presentation of all data, and for the review of any work sublet to others.
- I.C.4. The CONSULTANT shall notify all subconsultants under this contract of ALL new work assignments made by the CITY to the CONSULTANT regardless of any particular subconsultant's engagement level under a particular task order. This notification information may be requested by the CITY in the form of a report.

I.D. Work Standards

The CONSULTANT will perform the studies, prepare documents and reports, and develop plans in accordance with all applicable State and Federal regulations and safety guidelines.

I.E. Deliverables

The CONSULTANT will submit to the CITY the work products outlined in the detailed SCOPE OF WORK developed for each task. All deliverables will be in accordance to guidelines of the CITY.

I.F. Guidelines

All work under this contract shall be performed in accordance with all applicable guidelines published by the CITY, and in accordance with the SCOPE OF WORK developed for each task.

- I.G. When performing field work on or adjacent to public streets or highways, it shall be the responsibility of the CONSULTANT to provide traffic control including flagmen and/or any other necessary devices in accordance with the "Manual on Uniform Traffic Control Devices" (Current Edition), the "N. C. Department of Transportation - Construction and Maintenance Operations Supplement to the M.U.T.C.D." and the "North Carolina Survey Crew Safety Supplement" to protect workers, equipment, and the traveling public.

ARTICLE II - DATA AND SERVICES TO BE PROVIDED BY THE CITY

II.A. Data and Services

II.A.1. The staff person assigned the proposed project in the respective Branch, Unit, or Division shall serve as the CITY's Project Manager for this AGREEMENT.

II.A.2. The CITY shall provide available data and information, as applicable to the detailed SCOPE OF WORK developed for each task, which may include but is not limited to, the following:

- Guidelines for any applicable discipline; and
- All data in the hands of the CITY that can be released that would assist the CONSULTANT in the accomplishment of the work.

ARTICLE III - TIME OF BEGINNING AND COMPLETION

III.A. Work will begin immediately following written Notice of Execution of this AGREEMENT and Notice to Proceed to begin work on a specified task. The work will be completed according to a written schedule mutually agreed upon by the CITY and the CONSULTANT. The CONSULTANT will be responsible for implementing and monitoring the schedule.

This Agreement will expire June 30, 2020 or after the not-to-exceed amount has been depleted, whichever comes first.

This Agreement may be extended, if mutually agreed upon by the CITY and the CONSULTANT.

III.B. Written approval from the Professional Services Management Unit, or the contracting Business Unit, of the CONSULTANT scope of work and cost estimate for each individual task assigned to the CONSULTANT shall be considered the Notice-to-Proceed. If additional tasks beyond the agreed-upon scope of work for the individual project are required to complete the assignment then a new written amended scope of work will be developed for the additional services. The CONSULTANT shall notify the CITY's Project Manager as soon as additional services beyond agreed upon scope of work appear to be warranted. All changes related to scope of work will be directed by and through the Professional Services Management Unit, or the contracting Business Unit. The CONSULTANT must never under any circumstance exceed the approved cost estimate without prior written authorization from the Professional Services Management Unit, or the CITY.

- III.C. No new assignment will be issued from the date of execution or after the not-to-exceed amount has been depleted, which ever occurs first. No additional work may be assigned under this AGREEMENT after that date unless appropriate supplemental agreements are in place. Work and billings on assignments with a signed notice to proceed before the end of the contract term will continue until satisfactory completion of the assignment deliverables.

ARTICLE IV - COMPENSATION AND PAYMENTS

IV.A. Fees and Costs

As compensation for the professional services outlined in ARTICLE I, a maximum fee amount will be established. The maximum fee amount for the services covered under this AGREEMENT shall not exceed **\$224,919.11** (Two Hundred and twenty four thousand, nine hundred and nineteen dollars and eleven cents). The professional services will be performed as individual tasks with lump sum or cost-plus compensation negotiated for each task. The lump sum amount negotiated for each task will be full compensation for all direct salary costs, overhead, direct non-salary costs, and operating margin incurred for the duration of the task. Direct salary costs from APPENDIX A shall be used to compute the lump sum or cost-plus amount for assignments assigned during the first year of the contract. The CONSULTANT shall always use their current overhead and cost of capital rates once the NCDOT Office of Inspector General issues an acceptance letter for the current year's overhead and cost of capital rates. The CONSULTANT will also be paid for other direct non-salary reimbursement costs as established in APPENDIX B of this AGREEMENT.

Overhead

Overhead rates for actual cost AGREEMENTs are not provisional and there will be no reconciliation to true up actual period costs. Once the NCDOT Office of Inspector General issues an acceptance letter for the current year's overhead rate, then the CONSULTANT should at that time begin billing the updated rate. Please refer to NCDOT Audit Requirements at the following site: <https://connect.ncdot.gov/business/consultants/Roadway/NCDOT%20Audit%20Requirements%20-%20Updated.pdf> .

Non-Salary Direct Costs

Non-salary direct costs from the web site <https://connect.ncdot.gov/business/consultants/Pages/Guidelines-Forms.aspx> shall be used. These are subject to change during the life of the AGREEMENT.

Other non-salary direct costs will be reimbursed by copy of invoices, receipts, leases (field office), bills or established rates (truck, etc.).

IV.B. Progress Report/Project Schedule

The CONSULTANT shall prepare a written progress report as required by the CITY's Project Manager during work which is in progress under this AGREEMENT. The progress report shall discuss accomplishments to date, provide percent of tasks completed, provide current and updated projects schedules, and identify outstanding issues or problems. Subsequent to the preparation of each progress report, the CONSULTANT may be requested to meet with the CITY to discuss project progress. **The progress report and an updated project schedule will be submitted to the CITY's Project Manager.**

The CONSULTANT shall, with each month's Progress Report/Invoice indicate in the form of a report, the cumulative total of all payments to subconsultants under this contract, regardless of any particular subconsultant's engagement level under a particular task order.

IV.C. Payment and Retainage

Payment (partial payment for lump sum task orders; payment of actual costs incurred for cost-plus task orders) will be made to the CONSULTANT on a monthly basis upon submission of a Progress Report/Project Schedule, an invoice stating the percent of completion of each task (for lump sum task orders) or a listing of actual costs incurred (for cost-plus task orders), and appropriate supporting documentation. Invoices shall be in the CITY's format and shall include a DBE-IS form with each invoice. Invoices shall be paid by the CITY within twenty-five days (25) of receipt. Interest will be added to accounts by the CONSULTANT for invoices not paid by the CITY within 25 days at the maximum rate allowed by law. If the CITY fails to make any payment due under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the CITY, suspend services and withhold deliverables until all amounts due are paid

The CITY may withhold retainage on this contract if deemed necessary by the Contract Administrator assigned by the CITY to this AGREEMENT. If retainage is withheld, payment for retainage may be released at any time during the contract period at the discretion of the contracting officer. The CONSULTANT may withhold retainage on subconsultants only if the CITY withholds retainage on the subconsultant's portion of the contract. If the CONSULTANT withholds retainage from the subconsultant, it will be released upon request for final payment from the subconsultants.

The CONSULTANT shall pay subconsultants for work performed after CONSULTANT receives payment from the CITY for work performed by the subconsultant. This requirement must be incorporated into all subconsultant

agreements. It shall be the responsibility of the CONSULTANT and all subconsultants to keep records of all payments requested and the dates received. The CITY may request copies of this information in the form of a report.

Reporting Subconsultant(s) and/or Subfirm(s)

When payments are made to Subconsultant(s) and/or Subfirm(s), including material suppliers, Firms at all levels (CONSULTANT, subconsultant, or second tier subconsultant) shall provide the CITY's Project Manager or Contract Administrator with an accounting of said payments. This accounting shall be furnished to the CITY's Project Manager or Contract Administrator for any given month by the end of the following month. Failure to submit this information accordingly may result in (1) withholding of money due in the next partial pay estimate; or (2) removal of an approved CONSULTANT from the prequalified bidders list or the removal of other entities from the approved subconsultants list. The accounting shall list for each payment made to a Subconsultant(s) and/or Subfirm(s) the following:

Project Number
Payer CONSULTANT Name and Federal Taxpayer ID
Receiving Subconsultant or Material Supplier and Federal Taxpayer ID
Amount of Payment
Date of Payment
This document shall be on the Department's Subconsultant Payment Information Form.

A responsible fiscal officer of the payee CONSULTANT, subconsultant, or second tier subconsultant who can attest to the date and amounts of the payments shall certify that the accounting is correct. A copy of an acceptable report may be obtained from the CITY's Project Manager or Contract Administrator.

IV.D. Inflation Adjustment

~~The salary rates contained in APPENDIX A a may be updated one year from the execution date of this AGREEMENT in accordance with the CONSULTANT'S corporate policies and upon submission of an amended payroll register. Additional updates, persons and personnel categories can be added to the payroll register, as needed, during the duration of the agreement, upon mutual agreement of both parties.~~

IV.E. Supplemental Agreement(s)

If and when the expenditures approach 75% of the not-to-exceed amount of the individual tasks under this AGREEMENT, the CITY's Project Manager shall be

notified in writing. At that time, the CITY's Project Manager and the CONSULTANT will review the work progress and determine the probability of a cost overrun and the need for a supplemental agreement. This review shall be made without interruption of the work.

The CONSULTANT shall notify the CITY's Project Manager when the cumulative value of all Task Orders under this AGREEMENT approaches 90% of the total AGREEMENT Value.

IV.F. Maintenance of Information and Reports

IV.F.1. Misc. Information

IV.F.1.a. All work will be administered and performed in accordance with Federal Aid Policy Guide - 23 CFR 172, the North Carolina Administrative Code, all relevant North Carolina General Statutes and all United States Statutes.

IV.F.1.b. Subcontracts exceeding \$2,500 which involve the employment of mechanics or laborers shall require the subconsultant to comply with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC Chapter 37) as supplemented by Department of Labor regulations (29 CFR, Part 5).

IV.F.1.c. Subcontracts exceeding \$10,000 shall require the subconsultant to comply with all Federal and State Statutes and regulations required in the AGREEMENT.

IV.F.2. Availability of Information

IV.F.2.a. The CONSULTANT will maintain all books, documents, papers, accounting records, and other information pertaining to costs incurred on this project and to make such materials available at its offices at all reasonable times during the contract period and for three (3) years from the date of final payment for inspection by the CITY, North Carolina Department of Transportation or the Federal Highway Administration or any other authorized representative of the CITY, North Carolina Department of Transportation or Federal Highway Administration. Copies thereof will be furnished to the CITY, North Carolina Department of Transportation and/or Federal Highway Administration if requested. The

CONSULTANT and any or all subconsultants will use cost principles as described in Federal Acquisition Regulation (48 CFR 1-31), Subpart 1-31.2.

IV.F.2.b. The CONSULTANT will require all subconsultants to whom a portion of this contract may be sublet to maintain all such books, documents, papers, accounting records, and other information pertaining to cost, and further to require that said subconsultants make these materials available to the CITY, North Carolina Department of Transportation and/or Federal Highway Administration at all reasonable times during the contract period and for three (3) years from date of final payment, and to require said subconsultants to furnish copies of such documents to the CITY, North Carolina Department of Transportation and/or Federal Highway Administration upon request. The CONSULTANT will affirmatively enforce this provision of this contract with the subconsultant upon request of the CITY, North Carolina Department of Transportation or the Federal Highway Administration.

IV.F.2.c. The CONSULTANT shall notify the CITY in writing of significant changes within the CONSULTANT'S firm (e.g., change of name, address, telephone number, project-related personnel changes, etc.). This responsibility includes ensuring the CONSULTANT'S qualification paperwork and registration information is current in the CITY's and the North Carolina Department of Transportation's files.

IV.G. No Guarantee of Need for Services

The CONSULTANT understands and agrees that this agreement does not guarantee that services will be needed from the CONSULTANT. The CONSULTANT further understands and agrees that if the CITY does not require that the CONSULTANT perform services at some point during the period of the agreement, the CONSULTANT will not receive any payment under this agreement. The CITY has exclusive authority to determine when services are needed from the CONSULTANT.

ARTICLE V - MISCELLANEOUS PROVISIONS

V.A. Conferences, Visits to Sites, Inspection of Work

The CONSULTANT will be represented by a responsible member of the firm at any meetings, hearings, consultations, and field conferences deemed necessary by the CITY or the CONSULTANT. All conferences held will be in the vicinity of the Project or in Greenville, North Carolina.

V.B. CONSULTANT'S Responsibility

The CONSULTANT shall be fully and totally responsible for the accuracy and completeness of all work performed under this contract and shall indemnify and save harmless the CITY and shall be fully liable for any additional costs and all claims against the CITY which may arise due to errors, omissions, or negligence of the CONSULTANT or any subconsultants in performing the work required by this AGREEMENT, including but not limited to any and all costs and damages for defending actions or claims under the National Environmental Policy Act (NEPA) or the North Carolina Environmental Policy Act of 1971.

The CONSULTANT shall defend, indemnify and hold harmless the CITY, its officers and employees from any claim, demand, suit, liability, judgment and expense (including attorney's fees and other costs of litigation) arising out of or relating to injury, disease, or death of persons or damage to or loss of property resulting from or in connection with the negligent performance of this AGREEMENT by the CONSULTANT, its agents, employees, and subconsultants or any one for whom the CONSULTANT may be responsible. The obligations, indemnities and liabilities assumed by the CONSULTANT under this paragraph shall not extend to any liability caused by the negligence of the CITY or its employees. The CONSULTANT'S liability shall not be limited by any provisions or limits of insurance set forth in this contract in Section V.F.2. PROFESSIONAL LIABILITY INSURANCE.

The CONSULTANT shall indemnify and hold harmless the CITY from any claim, demand, suit, liability, judgment, and expense (including attorney's fees and other costs of litigation) involving damage or loss to the CONSULTANT'S equipment (including vandalism, theft, fire and acts of God) arising out of or relating to work performed under this AGREEMENT. The obligations, indemnities and liabilities assumed by the CONSULTANT under this paragraph shall not extend to any liability caused by the negligence of the CITY or its employees. The CONSULTANT'S liability shall not be limited by any provisions or limits of insurance set forth in this contract.

If, during the duration of this AGREEMENT, the CONSULTANT receives instructions or directions which are considered beyond the scope of work outlined in this AGREEMENT, all work shall be suspended until the matter is resolved. The CONSULTANT shall immediately notify the CITY's Project Manager in writing with a description and justification for the claim of extra work.

The CONSULTANT shall not continue work until written notice to proceed is given.

If the CONSULTANT receives incorrect instruction or direction as it relates to the individual scope of work for an assignment, the CONSULTANT will contact the CITY's Project Manager with the details of the work beyond the negotiated Scope of Work herein. The CONSULTANT and CITY's Project Manager will mutually agree upon what direction to pursue before any additional work is undertaken for that specific assignment. If additional services are required, then a new scope of work and estimate will be prepared. The CONSULTANT shall not continue work until a written notice to proceed for the agreed upon services is given.

V.C. Relationship with Others

The CONSULTANT will cooperate fully with the CITY with municipalities and local government officials, Federal and state environmental resource and regulatory agencies, and with any others as may be directed by the CITY. This shall include attendance at meetings, workshops, and hearings and also includes provision of project development, human and natural environmental and engineering information to all parties as may be requested by the CITY. The CONSULTANT will also cooperate fully with the CITY and other agencies on adjacent projects.

V.D. The Professional services provided by the CONSULTANT under this AGREEMENT will be performed, findings obtained, and recommendations prepared in accordance with generally accepted industry principles and practices.

V.E. All work shall be administered and performed in accordance with Federal-Aid Highway Program Manual Volume 1, Chapter 7, Section 2 and the relevant parts of North Carolina Administrative Code and General Statutes.

V.F. ADDITIONAL PROVISIONS

V.F.1. COVENANT AGAINST CONTINGENT FEES

The CONSULTANT warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gifts, or any consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the CITY

shall have the right to annul this contract without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

V.F.2. INSURANCE

The Consultant shall maintain the following insurance coverages while performing in accordance with the terms of this contract, subject to the terms and conditions of the policies:

Workers' Compensation: Statutory

Employer's Liability --

Each Accident:	<u>\$100,000</u>
Disease, Policy Limit:	<u>\$500,000</u>
Disease, Each Employee:	<u>\$100,000</u>

General Liability --

Each Occurrence (Bodily Injury and Property Damage): \$1,000,000

General Aggregate: \$2,000,000

Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage):

Each Accident \$1,000,000

Professional Liability --

Each Claim Made	<u>\$1,000,000</u>
Annual Aggregate	<u>\$1,000,000</u>

CONSULTANT will furnish the CITY with certificates of insurance verifying the above referenced coverages and stating that the insurance carrier will provide the CITY with 30 days prior written notice of insurance cancellation. The CONSULTANT shall list the City as an additional insured for the General Liability and Automobile Liability insurance.

V.F.3. DESIGN

Unless covered elsewhere in this AGREEMENT, design standards are to be as furnished by the CITY.

V.F.4. OWNERSHIP OF ENGINEERING DOCUMENTS

All tracings, documents, technical reports, charts, plans, specifications, photographic negatives, survey notes, computations, and maps and other data prepared or obtained under the terms of the contract shall be delivered to and become the property of the CITY without restriction or limitation on their use. However, in the event of any reuse or alteration of any documents furnished to the CITY, such alteration or reuse shall be at the CITY'S sole risk. In the case of an agreement involving preliminary plans only, no commitment is stated or implied that would constitute a limitation on the subsequent use of the plans or ideas incorporated therein for preparation of construction plans. These items could become the property of the CITY, if the CITY so elects.

V.F.5. CHANGES IN WORK

All changes in the work will be included in supplemental agreements, which will be executed prior to beginning of such supplemental work. The supplemental work will be approved by the CITY and all other appropriate agencies prior to doing the work.

V.F.6. DELAYS AND EXTENSIONS

Reasonable extension of time for unforeseen delays may be made by mutual written consent of all parties involved.

V.F.7. TERMINATION OR ABANDONMENT

Should the CITY for any reason whatsoever decide to cancel or to terminate the use of the CONSULTANT'S services, it will furnish thirty (30) days written notice thereof to the CONSULTANT who will immediately terminate work, but shall bring to a reasonable stage of completion those items whose value would be otherwise lost without such necessary further work, as may be directed by the CITY, and will turn over to the CITY all data, environmental documents, technical reports, charts, survey notes, figures, drawings, and other records or information collected or secured herein, whether partial or complete. Upon such termination, the fee to be paid the CONSULTANT will be equitable to cover all services rendered, using a proportional amount of the total fee based on a ratio of the amount of work done to the total amount of work which was to have been performed, less prior partial payments which have been made and also pursuant to an accounting by the CITY and upon approval of the Contract Administrator.

V.F.8. DISPUTE RESOLUTION

All claims by the Client arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes

V.F.9. GENERAL COMPLIANCE WITH LAWS

The CONSULTANT will comply with all laws, ordinances and regulations, Federal, State and local, applicable to the work. Specific attention is directed to North Carolina General Statutes 14-100 (Obtaining Property by False Pretenses) and 136-13.2 (Falsifying Highway Inspection Reports).

1. Selection of Labor

During the performance of this AGREEMENT, the CONSULTANT will not discriminate against labor from any other State, possession or territory of the United States.

2. Employment Practices

THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS CONSULTANTS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBCONSULTANTS AND VENDORS UNDER CITY CONTRACTS.

During the performance of this AGREEMENT, the CONSULTANT agrees to comply with all applicable provisions of 49 CFR Part 21, 23 CFR Part 200 and Part 230 and the Civil Rights Act of 1964 as amended, and agree as follows:

- a. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, religion, creed, color, national origin, sex, age, handicap and/or disability. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, creed, color, national origin, sex, age, handicap or disability.

Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the CITY setting forth the provisions of this nondiscrimination clause.

- b. The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, religion, creed, color, national origin, sex, age, handicap and/or disability.
- c. The CONSULTANT will send to each labor union or representative of workers with which the CONSULTANT has a collective bargaining agreement or other contract or understanding, a notice to be provided by the CITY, advising the labor union or workers' representatives of the CONSULTANT'S commitments under this AGREEMENT and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The CONSULTANT will comply with all provisions of U.S. Presidential Executive Order No. 11246 as amended by Executive Order 11375, and other Orders and as supplemented in U.S. Department of Labor regulations (41 CFR Chapter 60).
- e. The CONSULTANT will furnish all information and reports required by Executive Order No. 11246 as amended by Executive Order 11375, and other Orders, and as supplemented in U.S. Department of Labor regulations (41 CFR Chapter 60), and will permit access to his books, records, and accounts by the U.S. Secretary of Labor or Labor Officials for purposes of investigations to ascertain compliance with such rules, regulations and orders.
- f. In the event of the CONSULTANT'S

noncompliance with the nondiscrimination clauses of this AGREEMENT or with any of rules, regulations, or orders referenced hereinabove this AGREEMENT may be canceled, terminated, or suspended in whole or in part, and the CONSULTANT may be declared ineligible for further Government contracts or Federally-assisted construction agreements in accordance with procedures authorized in Executive Order No. 11246 as amended by Executive Order 11375 and other Orders and as supplemented in U.S. Department of Labor regulations (41 CFR Chapter 60) and such other sanctions may be imposed and remedies invoked as provided in the aforementioned U.S. Presidential Executive Order and regulations or as otherwise provided by law.

- g. The CONSULTANT will include the provisions of the paragraphs under Section V.F.9.2 of this AGREEMENT in every subcontract or purchase order so that such provisions will be binding upon each subconsultant or vendor unless specifically exempted by rules, regulations, or orders of the U.S. Secretary of Labor issued pursuant to Section 204 of the U.S. Presidential Executive Order No. 11246.

3. Title VI and Nondiscrimination

Purpose

The purpose of this section is to comply with Federal Requirements under United States Department of Transportation Order 1050.2A, Title 49 Code of Federal Regulations (CFR) part 21 and 23 CFR part 200. Any Federal provision that is specifically required not specifically set forth is hereby incorporated by reference.

a. Title VI Assurance (1050.2A, Appendix A & E)

- i. During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(1) Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of

Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

(3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

- (a) withholding payments to the contractor under the contract until the contractor complies; and/or
- (b) cancelling, terminating, or suspending a contract, in whole or in part.

(6) Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

- ii. During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the

basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

b. Title VI Nondiscrimination Program (23 CFR 200.5(p))

The CITY has assured the North Carolina Department of Transportation (NCDOT) and United States Department of Transportation that, as a condition to receiving federal financial assistance, the CITY will comply with Title VI of the Civil Rights Act of 1964 and all requirements imposed by Title 49 CFR part 21 and related nondiscrimination authorities to ensure that no person shall, on the ground of race, color, national origin, limited English proficiency, income-level, sex, age, or disability, (or religion, where applicable) be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any programs, activities, or services conducted or funded by CITY. Contractors and other organizations under contract or agreement with CITY must also

comply with Title VI and related authorities, therefore:

- i. During the performance of this contract or agreement, contractors (e.g., subcontractors, consultants, vendors, prime contractors) are responsible for complying with the CITY's and NCDOT's Title VI Program. Contractors are not required to prepare or submit Title VI Programs. (*USDOJ Title VI Legal Manual, VI(F)*)
- ii. Subrecipients (e.g. cities, counties, LGAs, MPO/RPOs) may be required to prepare and submit a Title VI Program to the CITY, which may include Title VI Nondiscrimination Assurances and/or agreements. Subrecipients must also ensure that their contractors and subrecipients comply with Title VI. (*23 CFR 200.9(b)(7)*)
- iii. If reviewed or investigated by the CITY and/or NCDOT, the contractor or subrecipient agrees to take affirmative action, to correct any deficiencies found within a reasonable time period, not to exceed 90 calendar days, unless additional time is granted by the CITY. (*23 CFR 200.9(b)(15)*)

4. Incorporation of Provisions:

The CONSULTANT will include the provisions of paragraph V.F.9.3 of this AGREEMENT in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The CONSULTANT or subconsultant will take such action with respect to any subcontract, procurement or leases as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the CONSULTANT become involved in, or is threatened with litigation with a subconsultant, or lessor as a result of such direction, the CONSULTANT may request the CITY to enter into such litigation to protect the interests of the CITY, and in addition, the CONSULTANT may request the State of North Carolina and United States to enter into such litigation to protect the interests of the United States. The CONSUTLANT shall advise the CITY, State of North Carolina and United States in writing of such

potential or actual litigation. However, the CITY, State of North Carolina and United States are not required to enter into such litigation by law. The CONSULTANT shall be responsible for paying all litigation expenses, including but not limited to attorneys fees and costs, incurred by the CITY, State of North Carolina and United States defending such litigation.

5. For contracts and subcontracts of amounts in excess of \$100,000.00, the CONSULTANT or subconsultant will comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 7606), Section 508 of the Clean Water Act (33 USC 1368), U.S. Presidential Executive Order 11738, and U.S. Environmental Protection Agency (EPA) regulations, which prohibit, under nonexempt Federal contracts, grants or loans, the use of facilities included on the EPA List of Violating Facilities. The CONSULTANT or subconsultant will report violations to the grantor agency and to the U.S. Environmental Protection Agency, U.S. Assistant Administrator for Enforcement.

V.F.10. DISADVANTAGED BUSINESS ENTERPRISE

(a) Policy

It is the policy of the CITY that small businesses shall have an equal opportunity to compete fairly for and to participate in the performance of contracts financed in whole or in part by federal and state funds.

The CITY is committed to its annual aspirational goal(s) set on all federally-assisted, state and locally funded contracts. Professional Services Contracts are race and gender neutral and do not contain goals. However, the CONSULTANT is encouraged to give every opportunity to allow Disadvantaged, Minority-Owned and Women-Owned Business Enterprises (DBE/MBE/WBE) subconsultant participation on all contracts and supplemental agreements.

(b) Obligation

In compliance with *Title VI, 23 CFR 200, 230, 635, 117 (d) and (e) and 49 CFR Parts 21 and 26*, the CONSULTANT and subconsultant shall not discriminate on the basis of race, religion, color, creed, national origin, age, disability or sex in the performance of this

contract. Failure by the CONSULTANT to comply with these requirements is a material breach of this contract, which will result in the termination of this contract or such other remedy, as the CITY of Transportation deems necessary.

(c) Reporting Participation

When payments are made to subconsultants, including material suppliers, firms at all levels (CONSULTANT, subconsultant or subfirm) shall provide the Contract Administrator with an accounting of said payments. This accounting shall be furnished to the Contract Administrator for any given month, by the end of the following month. Failure to submit this information accordingly may result in (1) withholding of money due in the next partial pay estimate; or (2) removal of an approved CONSULTANT from the pre-qualified list or the removal of other entities from the approved subconsultants list. The accounting shall be listed on the Department's Subcontractor Payment Information Form (Form DBE-IS). In the event the CONSULTANT has no subconsultant participation, the firm shall indicate this on the Form DBE-IS by entering the word 'None' or the number 'zero' and the form shall be signed.

A responsible fiscal officer of the payee CONSULTANT, or subconsultant, who can attest to the date and amount of the payments shall certify that the accounting is correct on the Form DBE-IS by affixing his/her signature. This information shall be submitted as part of the requests for payments made to the CITY. A copy of the Form DBE-IS may be found on the NCDOT website.

V.F.11. SMALL PROFESSIONAL SERVICES FIRM

(a) Program

The Small Professional Services Firm (SPSF) Program was developed to provide consultant opportunities for firms that meet the eligibility criteria to compete against other consultant firms that are comparably positioned in their industries. The CITY and North Carolina Department of Transportation is committed to providing contractual opportunities to qualified firms and believes that the total quality of a professional or specialized services team is enhanced by the inclusion of qualified subconsultants.

The SPSF program is a race, ethnicity, and gender neutral program designed to increase the availability of contracting opportunities for small businesses on federal, state, or locally funded contracts. SPSF participation is not contingent upon the funding source.

Participation credit cannot be counted unless the firm is certified as a SPSF at the time a letter of interest is submitted for the proposed work.

A firm certified as a Disadvantaged Business Enterprise (DBE), Minority Business Enterprise (MBE), and/or Women's Business Enterprise (WBE) may automatically be certified, based on North American Industrial Classification System (NAICS) code classification, as an SPSF and does not need to obtain further SPSF certification.

(b) Replacement of SPSF contractors

The Prime Consultant must not terminate a SPSF listed in the Consultant's Letter of Interest, See Section I.B., for convenience and then perform the work of the terminated subcontract with its own forces, or those of an affiliate, without the Department's prior written consent.

When a SPSF subconsultant is terminated or fails to complete its work on the contract for any reason, the Department encourages the Prime Consultant to make an earnest effort to find another SPSF subconsultant to substitute for the original SPSF. These efforts shall be directed at finding another SPSF to perform at least the same amount of work under the contract as the SPSF that was terminated.

(c) Counting SPSF Participation toward meeting the proposed SPSF Utilization

If a Firm is determined to be an eligible SPSF Firm and certified by the Department, the total dollar value of the participation by the SPSF will be counted toward the utilization. The total dollar value of participation by a certified SPSF will be based upon the value of work actually performed by the SPSF and the actual payments to SPSF Firms by the Consultant.

V.F.12. SUBLETTING, ASSIGNMENT, OR TRANSFERS

There shall be no assignment, subletting or transfer of the interest of the CONSULTANT in any of the work covered by the AGREEMENT without the written consent of the CITY, except that the CONSULTANT may, with prior notification of such action to the CITY, sublet property searches and related services without further approval of the CITY.

V.F.13. CONSULTANT'S ENDORSEMENT OF PLANS, ETC.

The CONSULTANT will sign and professional seal all environmental documents, reports, surveys, computations, maps, plans, specifications, estimates, and engineering data furnished by it.

V.F.14. CONTROL OF WORK

All work by the CONSULTANT or subconsultant is to be done in a manner satisfactory to the CITY and in accordance with the established customs, practices, and procedures of the North Carolina Department of Transportation and in conformity with the Standards adopted by the American Association of State Highway Transportation Officials (AASHTO), and approved by the Secretary of Transportation as provided in Title 23, U. S. Code, Section 109(b). The decision of the CITY is to control in all questions regarding location, type of design, dimension of design, and similar questions.

V.F.15. APPROVAL OF PERSONNEL

The CITY shall have the right to approve or reject the CONSULTANT's or subconsultant's project manager, project engineer, design engineer, technicians, and other technical or supervisory personnel assigned to a project.

In the event of engagement, the CONSULTANT or their subconsultant shall restrict such person or persons from working on any of the CONSULTANT'S contracted projects in which the person or persons were formerly involved while employed by the CITY. This restriction period shall be for the duration of the contracted project with which the person or persons was involved. "Involvement" shall be defined as active participation in any of the following activities:

- Drafting the planning, environmental and/or engineering

- agreement;
- Defining the scope of the contracted work;
- Selection of the CONSULTANT for service;
- Negotiation of the cost of the CONSULTANT'S services (including calculating work days or fees); and
- Administration of the contract.

An exception to these terms may be granted when recommended by the City Manager and approved by the City of Greenville City Council.

Failure to comply with the terms stated above shall be grounds for termination of this contract and/or not being considered for selection of work on future contracts for a period of one year.

V.F.16. GIFTS AND FAVORS

By N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any CITY employee or State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review G.S. Sec. 133-32.

V.F.17. CONFLICT OF INTEREST

The CONSULTANT does hereby certify that they have not entered into and, during the lifetime of the AGREEMENT, will not enter into any agreement with a third-party affording the CONSULTANT, or any Subcontractors that they may hire, with any direct or indirect financial interest in the outcome of the project, except with regard to the project development, human and natural environmental and/or engineering services associated with this AGREEMENT.

Pursuant to N.C.G.S. § 133-1, the CONSULTANT will not knowingly specify building materials, equipment, or other items that are manufactured, sold or distributed by any firm or corporation in which the designer has a financial interest. Pursuant to N.C.G.S. § 133-2, the CONSULTANT will not employ or allow manufacturers or their representatives or agents to write, plan, draw, or make specifications for such public works.

The CONSULTANT does hereby certify that it does not have any potential conflict of interest with any entity involved with the project. Any potential conflict of interest shall be disclosed immediately to the CITY.

V.F.18. COMPLIANCE WITH LAW

In performing all of the Services, the Consultant shall comply with all applicable law.

V.F.19. E-VERIFY COMPLIANCE

The CONSULTANT shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the CONSULTANT utilizes a Subconsultant, the CONSULTANT shall require the Subconsultant to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The CONSULTANT represents that their firm and its Subconsultant are in compliance with the requirements of Article 2 Chapter 64 of the North Carolina General Statutes.

V.F.20. MISCELLANEOUS

Choice of Law and Forum

This contract shall be deemed made in Pitt County, North Carolina. This contract shall be governed by and construed in accordance with the law of North Carolina. The exclusive forum and venue for all actions arising out of this contract shall be the North Carolina General Court of Justice, in Pitt County. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.

Waiver

No action or failure to act by the City shall constitute a waiver of any of its rights or remedies that arise out of this contract, nor shall such action or failure to act constitute approval of or

acquiescence in a breach thereunder, except as may be specifically agreed in writing.

Performance of Government Functions

Nothing contained in this contract shall be deemed or construed so as to in any way stop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

Severability

If any provision of this contract shall be unenforceable, the remainder of this contract shall be enforceable to the extent permitted by law.

Rights in Deliverables

All deliverables provided by Consultant to the City shall belong to the City. Methodologies and other instruments of service used to prepare the deliverables shall remain the property of the Consultant.

Confidentiality

The CITY consents to the use and dissemination by the CONSULTANT of photographs of the project and to the use by the CONSULTANT of facts, data and information obtained by the CONSULTANT in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the CITY as confidential, the CONSULTANT shall use reasonable care to maintain the confidentiality of that material.

APPENDICES

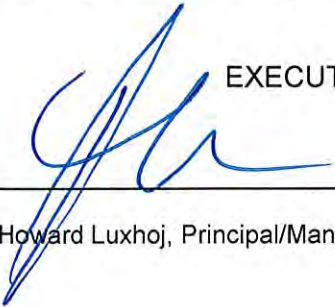
The following Attachments are made a part of this contract:

- APPENDIX A: Fee Structure
- APPENDIX B: Required Documents and Forms
- APPENDIX C: Schedule of Work

In case of conflict between an exhibit and the text of this contract excluding the exhibit, the text of this contract shall control.

(REMAINDER OF) THIS PAGE LEFT INTENTIONALLY BLANK.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed in triplicate originals as the day and year first above written.

EXECUTED by the CITY this DATE _____
By:  _____ Date: 4/8/19 _____
Title: Howard Luxhoj, Principal/Managing Member

CITY OF GREENVILLE

By: _____ Date: _____
Title: P.J. Connelly, Mayor

APPROVED AS TO FORM

By: _____
Title: Emanuel D. McGirt, City Attorney

Pre-Audit Certification:

This Instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

By: _____
Byron Hayes, Director
City of Greenville Financial Services

ACCT#:

CERTIFICATION OF CONSULTANT

Howard Luxhoj, PE, being duly sworn, certify that I am the
Principal and Managing Member and duly authorized representative of
Transmap Engineering, PLLC
whose address is 5030 Transamerica Drive, Columbus, Ohio 43228
and that neither I nor the above firm I represent or any of its principals:

- (a) has employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above firm) to solicit or secure this agreement;
- (b) has agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the agreement, or
- (c) has paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above firm) any fee, contribution, donation, or consideration of any kind for, or in connection with procuring or carrying out the agreement;
- (d) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (e) has within a three-year period preceding this agreement been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records; making false statements; or receiving stolen property;
- (f) is presently indicted for or otherwise criminally or civilly charged by governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph e. of this certification; and
- (g) has within a three-year period preceding this agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

except as here expressly stated (if any):

I acknowledge that this certification is executed according to EXHIBIT A, which is also a part of this agreement, and that if future certifications are required of subconsultants and suppliers, under US DOT Order 4200.5E and 2 CFR Part 180, I shall obtain them.

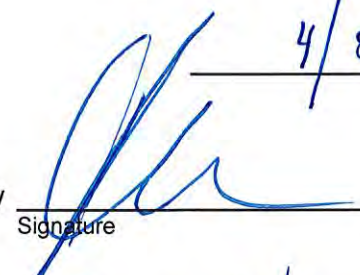
I acknowledge that this certificate is to be furnished to the North Carolina Department of Transportation and the Federal Highway Administration, U. S. Department of Transportation, in connection with this agreement and is subject to applicable State and Federal laws, both criminal and civil.

Attest 
 Signature

Member
 Title

Craig Schorling, GISP
 Print or type Signer's name

4/8/19
 (Date)

By 
 Signature

Principal / Managing Member
 Title

Howard Luxhoj, PE
 Print or type Signer's name

APPENDIX A: FEE SCHEDULE

**Greenville Urban Area, MPO, NC
Pavement Condition Survey
Appendix A**

Pavement Condition Survey

Task	Description	Comments	Units	Price	Total
1a	ON-SIGHT™ Raw Data Collection Includes LIDAR (units = centerline miles) Roads	Transmap will utilize our Crack Map 3D technology (LCMS) for pavement collection - 100% coverage - 360-degree image view of all roadways (ROW) with our panoramic Ultra HD solution. Ground-based LIDAR (100% roadway coverage)	427	\$113.99	\$48,673.73
1b	Advanced Inspections - 100% Analysis of All Through Lanes (units = lump sum)	Transmap will process all the data collected in the field. Delivery of Crack Map Orthophotography (Mr. SID of cracks on an image), Crack Intelligence data (Rankings of all the cracks, hot spot analysis) and MPO-wide rutting (All Through Lanes)	1	\$5,848.00	\$5,848.00
1c	Network Setup and Review (units = hours)	Transmap will use some of the existing information from the initial inspection. Transmap will add new road segment information for the MPO and any new segments since the initial inspection.	28	\$109.00	\$3,052.00
1d	ASTM D6433 Compliant Network Level Pavement Condition Index (PCI) Rating - (units = management sections)	Detailed surface distress analysis - Transmap uses ASTM D6433 network level analysis - Crack Map 3D approach - Pavement width included - Price includes field verification (walkout)	7,554	\$6.47	\$48,874.38
1e	GIS Integration - Limited Work History (units = hours)	Transmap will link all PCI data to the MPO's centerline file. - Transmap performs work history updates in MicroPAVER for all of our clients. - Our team has been trained by the official APWA MicroPAVER trainer. - If any other GIS work is needed to be done, the hours can be purchased.	36	\$109.00	\$3,924.00
1f	MicroPAVER Load (units = lump sum)	Formatting distress data and centerline file for mass load into MicroPAVER using scripts	4	\$2,475.00	\$9,900.00
1g	Pavement Management Practice Definition "Boot Camp" (price is lump sum)	Transmap will meet with Greenville MPO to review maintenance/ rehabilitation activities, analysis procedures, and collect any existing information on roadways (ADT data, construct dates, maintenance dates, etc.) Prepare budget and CIP plans	1	\$3,850.00	\$3,850.00
1h	Reporting (units = hours)	Transmap will put together written/tabular and GIS map data to support traditional preventative maintenance pavement reporting. Budget scenarios with actual dollar amounts per M&R activity - Final pavement plan presented to council pavement performance curve included	44	\$137.00	\$6,028.00
1i	Transmap Project Management (units = hours)	Standard project management includes staff allocation, project tracking web site, phone calls, overall project coordination and updates - Kickoff meeting - Includes council presentation	164	\$109.00	\$17,876.00
1j	FWD/GPR Recommendations (units = day)	Once the Pavement Condition Index data and reporting is delivered to Greenville MPO, Transmap will sit with Greenville MPO to determine what roads would benefit from FWD or GPR inspections.	1	\$1,750.00	\$1,750.00
<i>Subtotal</i>					\$149,776.11

Software & Training

Task	Description	Comments	Units	Price	Total
2a	On-Site MicroPAVER I Training (units = days) Expenses not included	Transmap will provide MicroPAVER I Training - This is a 2-day class that goes over every phase of MicroPAVER work flow.	2	\$3,520.00	\$7,040.00
2b	MicroPAVER Software (units = software)	Transmap will purchase MicroPAVER software for the MPO. This pricing is based on the MPO having at least one registered APWA member. This is a download that comes with 2 installations and first year of support from APWA.	1	\$995.00	\$995.00
2c	MicroPAVER Software (units = software) Annual Maintenance	Maintenance after first year - The MPO would pay this fee directly to APWA.		\$550.00	
<i>Subtotal</i>					\$8,035.00

Greenville Urban Area, MPO, NC
Assets
Village of Simpson, NC

Requested Assets

Task	Description	Comments	Units	Price	Total
3a	Sidewalks, ADA Ramps, Curbs, Shoulders (units = centerline miles)	Attributes include; street name, unique ID, unique ID (street centerline), Sidewalk (average width, surface type), Sidewalk Ramp (truncated dome, color)	3	\$82.50	\$247.50
3b	Manholes, Drop Inlets, curb inlets, bridges (units = centerline miles) Rates based on standard attributes	Standard attributes include; street name, unique ID, unique ID (street centerline), type - Bridges measured at each headwall	3	\$54.50	\$163.50
3c	Striping/Markings (units = centerline miles) Rates based on standard attributes	Standard attributes include; street name, unique ID, unique ID (street centerline), type, Good Poor condition	3	\$35.50	\$106.50
3d	Ditches, Culverts (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline)	3	\$27.50	\$82.50
3e	GIS Integration (units = hours)	Transmap will link all collected assets to Greenville MPO centerline unique ID and road name.	4	\$109.00	\$436.00
3f	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	4	\$109.00	\$436.00

Subtotal . \$1,472.00

**Greenville Urban Area, MPO, NC
Assets
Town of Winterville, NC**

Requested Assets

Task	Description	Comments	Units	Price	Total
4a	Sidewalks, ADA Ramps, Curbs, Shoulders (units = centerline miles)	Attributes include; street name, unique ID, unique ID (street centerline), Sidewalk (average width, surface type), Sidewalk Ramp (truncated dome, color)	46	\$82.50	\$3,795.00
4b	Manholes, Drop Inlets, curb inlets, bridges (units = centerline miles) Rates based on standard attributes	Standard attributes include; street name, unique ID, unique ID (street centerline), type - Bridges measured at each headwall	46	\$54.50	\$2,507.00
4c	Striping/Markings (units = centerline miles) Rates based on standard attributes	Standard attributes include; street name, unique ID, unique ID (street centerline), type, Good Poor condition	46	\$35.50	\$1,633.00
4d	Ditches, Culverts (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline)	46	\$27.50	\$1,265.00
4e	GIS Integration (units = hours)	Transmap will link all collected assets to Greenville MPO centerline unique ID and road name.	8	\$109.00	\$872.00
4f	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	13	\$109.00	\$1,417.00

Subtotal **\$11,489.00**

Greenville Urban Area, MPO, NC

Assets

Town of Ayden, NC

Requested Assets

Task	Description	Comments	Units	Price	Total
5a	Sidewalks, ADA Ramps, Curbs, Shoulders (units = centerline miles)	Attributes include; street name, unique ID, unique ID (street centerline), Sidewalk (average width, surface type), Sidewalk Ramp (truncated dome, color)	37	\$82.50	\$3,052.50
5b	Manholes, Drop Inlets, curb inlets, bridges (units = centerline miles) Rates based on standard attributes	Standard attributes include; street name, unique ID, unique ID (street centerline), type - Bridges measured at each headwall	37	\$54.50	\$2,016.50
5c	Striping/Markings (units = centerline miles) Rates based on standard attributes	Standard attributes include; street name, unique ID, unique ID (street centerline), type, Good Poor condition	37	\$35.50	\$1,313.50
5d	Ditches, Culverts (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline)	37	\$27.50	\$1,017.50
5e	GIS Integration (units = hours)	Transmap will link all collected assets to Greenville MPO centerline unique ID and road name.	8	\$109.00	\$872.00
5f	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	11	\$109.00	\$1,199.00

Subtotal

\$9,471.00

Greenville Urban Area, MPO, NC

Assets

City of Greenville, NC

Requested Assets

Task	Description	Comments	Units	Price	Total
6a	Sidewalks, ADA Ramps, Curbs, Shoulders (units = centerline miles)	Attributes include; street name, unique ID, unique ID (street centerline), Sidewalk (average width, surface type), Sidewalk Ramp (truncated dome, color)	273	\$82.50	\$22,522.50
6b	Striping/Markings (units = centerline miles) Rates based on standard attributes	Standard attributes include; street name, unique ID, unique ID (street centerline), type, Good Poor condition	273	\$35.50	\$9,691.50
6c	GIS Integration (units = hours)	Transmap will link all collected assets to Greenville MPO centerline unique ID and road name.	18	\$109.00	\$1,962.00
6d	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	44	\$109.00	\$4,796.00

Subtotal **\$38,972.00**

Greenville Urban Area, MPO, NC

Assets
Pitt County, NC

Requested Assets

Task	Description	Comments	Units	Price	Total
7a	Curbs, Shoulders (units = centerline miles)	Attributes include; street name, unique ID, unique ID (street centerline), Sidewalk (average width, surface type), Sidewalk Ramp (truncated dome, color)	38	\$41.25	\$1,567.50
7b	Ditches, Culverts (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline)	38	\$27.50	\$1,045.00
7c	GIS Integration (units = hours)	Transmap will link all collected assets to Greenville MPO centerline unique ID and road name.	8	\$109.00	\$872.00
7d	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	5	\$109.00	\$545.00

Subtotal **\$4,029.50**

Transmap Engineering, PLLC

Greenville Urban Area, MPO, NC

Assets
DOT Roads

Requested Assets

Task	Description	Comments	Units	Price	Total
8a	Sidewalks (units = centerline miles)	Attributes include; street name, unique ID, unique ID (street centerline), Sidewalk (average width, surface type)	30	\$26.75	\$802.50
8b	GIS Integration (units = hours)	Transmap will link all collected assets to Greenville MPO centerline unique ID and road name.	4	\$109.00	\$436.00
8c	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	4	\$109.00	\$436.00
<i>Subtotal</i>					\$1,674.50

APPENDIX B: Required Documents and Forms



Find yourself in good company

CITY OF GREENVILLE, NORTH CAROLINA

Request for Proposal #

18-19-17

For internal State agency processing, including tabulation of proposals in the Interactive Purchasing System (IPS), please provide your company's Federal Employer Identification Number or alternate identification number (e.g. Social Security Number). Pursuant to G.S. 132-1.10(b) this identification number shall not be released to the public. **This page will be removed and shredded, or otherwise kept confidential**, before the procurement file is made available for public inspection.

**This page is to be filled out and returned with your proposal.
Failure to do so may subject your proposal to rejection.**

ID Number:

46-2258142

Federal ID Number or Social Security Number

Transmap Engineering, PLLC

Vendor Name



CITY OF GREENVILLE, NORTH CAROLINA
 Greenville Urban Area Metropolitan Planning Organization
 1500 Beatty Street
 Greenville, NC 27834

Refer ALL inquiries regarding this RFP to: Ryan Purtle Transportation Planner/MPO Coordinator (252) 329-4476 RPurtle@Greenvillenc.gov	Request for Proposal # 18-19-17
	Proposals will be publicly opened on: February 19, 2019
	Contract Type: Professional Services
	Description: Update of the City of Greenville, Towns of Ayden and Winterville, Village of Simpson and Pitt County Locally Maintained Roadway Pavement Condition Survey
	Using Agency: City of Greenville on Behalf of the Greenville Urban Area MPO
	Requisition No.: None

In compliance with this Request for Proposals, and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this proposal, the undersigned Vendor certifies that this proposal is submitted competitively and without collusion (G.S. 143-54), that none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that it is not an ineligible Vendor as set forth in G.S. 143-59.1. False certification is a Class I felony. Furthermore, by executing this proposal, the undersigned certifies to the best of Vendor's knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency. As required by G.S. 143-48.5, the undersigned Vendor certifies that it, and each of its sub-Contractors for any Contract awarded as a result of this RFP, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system. G.S. 133-32 and Executive Order 24 (2009) prohibit the offer to, or acceptance by, any State Employee associated with the preparing plans, specifications, estimates for public Contract; or awarding or administering public Contracts; or inspecting or supervising delivery of the public Contract of any gift from anyone with a Contract with the State, or from any person seeking to do business with the State. By execution of this response to the RFP, the undersigned certifies, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Failure to execute/sign proposal prior to submittal shall render proposal invalid and it WILL BE REJECTED.
Late proposals cannot be accepted.

VENDOR: Transmap Engineering, PLLC		
STREET ADDRESS: 5030 Transamerica Drive	P.O. BOX:	ZIP:
CITY & STATE & ZIP: Columbus, Ohio 43228	TELEPHONE NUMBER: 614-481-6799	TOLL FREE TEL. NO:
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO VENDORS ITEM #10):		
PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR: Howard Luxhoj, PE - Principal and Managing Member		FAX NUMBER: 614-481-4017
VENDOR'S AUTHORIZED SIGNATURE: 	DATE: 2/14/19	EMAIL: hluxhoj@transmap.com

Offer valid for at least 60 days from date of proposal opening, unless otherwise stated here: _____ days. After this time, any withdrawal of offer shall be made in writing, effective upon receipt by the agency issuing this RFP.

ACCEPTANCE OF PROPOSAL

If any or all parts of this proposal are accepted by the State of North Carolina, an authorized representative of the City of Greenville shall affix his/her signature hereto and this document and all provisions of this Request For Proposal along with the Vendor proposal response and the written results of any negotiations shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful Vendor(s).

FOR CITY USE ONLY: Offer accepted and Contract awarded this _____ day of _____, 20____, as indicated on The attached certification, by _____ (Authorized Representative of the City of Greenville)

ATTACHMENT A: LOCATION OF WORKERS UTILIZED BY VENDOR

In accordance with NC General Statute 143-59.4, the Vendor shall detail the location(s) at which performance will occur, as well as the manner in which it intends to utilize resources or workers outside of the United States in the performance of this Contract. The City of Greenville will evaluate the additional risks, costs, and other factors associated with such utilization prior to making an award. Please complete items a, b, and c below.

a) Will any work under this Contract be performed outside the United States? YES NO

If the Vendor answered "YES" above, Vendor must complete items 1 and 2 below:

1. List the location(s) outside the United States where work under this Contract will be performed by the Vendor, any sub-Contractors, employees, or other persons performing work under the Contract:

2. Describe the corporate structure and location of corporate employees and activities of the Vendor, its affiliates or any other sub-Contractors that will perform work outside the U.S.:

b) The Vendor agrees to provide notice, in writing to the City of Greenville, of the relocation of the Vendor, employees of the Vendor, sub-Contractors of the Vendor, or other persons performing services under the Contract outside of the United States YES NO

NOTE: All Vendor or sub-Contractor personnel providing call or contact center services to the State of North Carolina under the Contract shall disclose to inbound callers the location from which the call or contact center services are being provided.

c) Identify all U.S. locations at which performance will occur:

Columbus, OH & Greenville, NC

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ATTACHMENT B: CITY OF GREENVILLE MWBE FORM PACK

Instructions

The submitter shall provide the following forms:

FORM 1—Sub-Service Provider Utilization Plan

This form provides the amount of sub-contracted work proposed on the project for MWBE. This proposed participation is based on the current scope of work. Submitter must turn in this form with submission. If the submitter does not customarily subcontract elements of this type of project, do not complete this form. Instead complete FORM 2.

FORM 2--Statement of Intent to Perform work without Sub-Service Providers

This form provides that the submitter does not customarily subcontract work on this type of project.

Sub-Service Provider Utilization Commitment

Submitted by the selected service provider after negotiation of the contract and prior to Award, this form lists the MWBE firms committed to participate on the project. This commitment will reflect any changes in the Plan due to adjustments in project scope.

NOTE: A firm is expected to maintain the level of participation proposed in FORM 1 – Sub-Service Provider Utilization Plan – unless there is a negotiated change in the service required by the City. A firm is also encouraged to increase MWBE participation in the Utilization Commitment as a result of ongoing Good Faith Efforts.

Proof of Payment Certification

Submitted by the selected service provider with each payment application, listing payments made to sub-consultants. This form is not provided with the submission.

In addition to the forms provided above, each service provider must provide a discussion of its diverse business policies and procedures to include the good faith efforts it employed to utilize minority and women-owned firms on this project. This discussion must include:

- 1. Outreach efforts that were employed by the firm to maximize the utilization of MWBE's.*
- 2. A history of MWBE firms used on similar projects; and*
- 3. The percentage participation of MWBE firms on these projects.*

NOTE: Those service providers submitting FORM 2 should discuss and provide documentation to justify 100% performance without the use of subconsultants (both majority and minority) per the statements of the form.

Minimum Compliance Requirements: All written statements, signed forms, or intentions made by the Submitter shall become a part of the agreement between the Submitter and the City for performance of contracts. Failure to comply with any of these statements, signed forms, or intentions or with the minority business guidelines shall constitute a breach of the contract. A finding by the City that any information submitted (either prior to award of the contract or during the performance of the contract) is inaccurate, false, or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the City whether to terminate the contract for breach or not. In determining whether a Submitter has made Good Faith Efforts, the City will evaluate all efforts made by the Submitter and will determine compliance in regard to quantity, intensity, and results of these efforts.

Sub-Service Provider Utilization Plan FORM 1

(Must be included with submission if subcontracting any portion of work)

We Transmap Engineering, PLLC, do certify that on the
(Company Name)

City of Greenville MPO, RFP #18-19-17 we propose to expend a minimum of
2 %

(Project Name)

of the total dollar amount of the contract with certified **MBE** firms and a minimum of
.5 % of the total dollar amount with **WBE** firms.

Name, Address, & Phone Number of Sub-Service Provider	*MWBE Category	Work description	% of Work
Bree & Associates, Inc.	MBE, DBE, HUB	Field walkout & QA/QC ADA compliance	2% - 5%
Morgan Printers, Inc.	WBE	Printing & delivery of reports & maps	.5% - 1%

*Minority categories: Black, African American (**B**), Hispanic or Latino (**L**), Asian American (**A**) American Indian (**I**),

Female (**F**) Socially and Economically Disadvantaged (**S**) Disabled (**D**)

The undersigned intends to enter into a formal agreement with MWBE firms for work listed in this schedule conditional upon execution of a contract with the current scope proposed by the Owner.

The undersigned hereby certifies that he/she has read the terms of this agreement and is authorized to bind the submitter to the agreement herein set forth.

Date: 2/14/19

Name & Title of Authorized Representative Howard Luxhoj, PE - Principal and Managing Member

Signature of Authorized Representative 

ATTACHMENT C: NCDOT FORM RS-2




**PRIME CONSULTANT
TO BE USED WITH PROFESSIONAL SERVICES CONTRACT ONLY
RACE AND GENDER NEUTRAL**

Pavement and Roadway Asset Management

TIP No. and/or Type of Work (Limited Services)

Transmap Engineering, PLLC / 46-2258142

(Consultant/Firm Name and Federal Tax Id)

<i>SERVICE / ITEM DESCRIPTION</i>	<i>Anticipated Utilization</i>										
Pavement and Roadway Asset Management	100%										
<table border="1"> <tr> <td colspan="2">TOTAL UTILIZATION:</td> </tr> <tr> <td colspan="2">RECOMMENDED BY: CONSULTANT:  Transmap Engineering, PLLC</td> </tr> <tr> <td colspan="2">*BY:</td> </tr> <tr> <td colspan="2">TITLE: Principal and Managing Member</td> </tr> <tr> <td>SPSF Status:</td> <td>Yes <input type="checkbox"/> No <input type="checkbox"/></td> </tr> </table>		TOTAL UTILIZATION:		RECOMMENDED BY: CONSULTANT:  Transmap Engineering, PLLC		*BY:		TITLE: Principal and Managing Member		SPSF Status:	Yes <input type="checkbox"/> No <input type="checkbox"/>
TOTAL UTILIZATION:											
RECOMMENDED BY: CONSULTANT:  Transmap Engineering, PLLC											
*BY:											
TITLE: Principal and Managing Member											
SPSF Status:	Yes <input type="checkbox"/> No <input type="checkbox"/>										

"PRIME CONCONSULTANT" (FORM RS-2) RACE AND GENDER NEUTRAL

Instructions for completing the Form RS-2:

1. Complete a Prime Consultant Form RS-2 for the prime consultant firm.
2. Insert TIP Number and /or Type of Work (Limited Services)
3. Complete the Consultant/Firm name and Federal Tax ID Number for the primary firm information.
4. Enter Service/Item Description – describe work to be performed by the Prime Firm
5. Enter Anticipated Utilization – Insert dollar value or percent of work to the Prime Firm
6. *Signature of the Prime Consultant **is required** on each RS-2 Form to be submitted with the Letter of Interest (LOI) to be considered for selection
7. Complete "SPSF Status" section - Check the appropriate box regarding SPSF Status, check Yes if SPSF or No if not SPSF

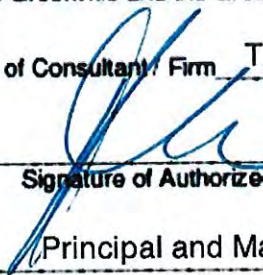
**ATTACHMENT D: CERTIFICATION OF DEBARMENT, SUSPENSION,
INELIGIBILITY, ETC...**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
AND VOLUNTARY EXCLUSION FOR FEDERAL AID CONTRACTS**

(Compliance with 49CFR, Part 29)

I hereby certify that neither the below identified firm nor its principals are presently suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into contract by any federal agency, or any department, agency, or political subdivision of any State and will immediately notify the City of Greenville and the Greenville Urban Area MPO of any such actions.

Name of Consultant/ Firm Transmap Engineering, PLLC

By:  Date 2/14/19
Signature of Authorized Representative

Title: Principal and Managing Member

Instructions for Certification

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

<http://www.gpo.gov/fdsys/granule/CFR-2004-title49-vol1/CFR-2004-title49-vol1-part29/content-detail.html>

ATTACHMENT E: CERTIFICATION OF CONFLICT OF INTERESTS

**CONFLICT OF INTEREST CERTIFICATION FOR
CONSULTANTS/CONTRACTORS**

I certify that I have no present conflict of interest, that I have no knowledge of any conflict of interest that my firm may have, and that I will recuse myself from any capacity of decision making, approval, disapproval, or recommendation on any contract if I have a conflict of interest or a potential conflict of interest.

Consultants/Contractors are expected to safeguard their ability to make objective, fair, and impartial decisions when performing work for the MPO, and therefore may not accept benefits of any sort under circumstances in which it could be inferred by a reasonable observer that the benefit was intended to influence a pending or future decision of theirs, or to reward a past decision. Consultants performing work for the MPO should avoid any conduct (whether in the context of business, financial, or social relationships) which might undermine the public trust, whether or not that conduct is unethical or lends itself to the appearance of ethical impropriety.

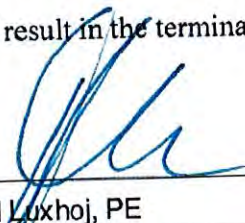
For purposes of determining any possible conflict of interest, all firms, must disclose if any Greenville Urban Area Metropolitan Planning Organization Board Members, Employee(s), Advisory Committee Member(s), or if any of its agencies is also an owner, corporate officer, agency, employee, etc., of their business.

Indicate either "yes" (a MPO employee, elected official, or agency is also associated with your business), or "no". If yes, give person(s) name(s) and position(s) with your business.

Yes _____ No X

Name(s)	Position(s)

I realize that violation of the above mentioned standards could result in the termination of my work for the City of Greenville and the MPO.

DATE: 2/14/19 SIGNATURE: 
Company: Transmap Engineering, PLLC NAME: Howard Luxhoj, PE
(Typed or Printed)
Address: 5030 Transamerica Drive TITLE: Principal and Managing Member
Columbus, Ohio 43228
PHONE NO: 614-481-6799 E-MAIL hluxhoj@transmap.com

ATTACHMENT F: NCDOT VENDOR REGISTRATION FORM, W-9

SUBSTITUTE FORM W-9

**VENDOR REGISTRATION FORM
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION**

Form sent to Internal Revenue Service (IRS) Regulations, vendors must furnish their Taxpayer Identification Number (TIN) to the State. If this number is not provided, you may be subject to a 20% withholding on each payment. To avoid this 20% withholding and to insure that accurate tax information is reported to the Internal Revenue Service and the State, please use this form to provide the requested information exactly as it appears on file with the IRS.

**INDIVIDUAL AND SOLE PROPRIETOR: ENTER NAME AS SHOWN ON SOCIAL SECURITY CARD
CORPORATION OR PARTNERSHIP : ENTER YOUR LEGAL BUSINESS NAME**

NAME: Transmap Engineering, PLLC

MAILING ADDRESS: STREET/PO BOX: 5030 Transamerica Drive

CITY, STATE, ZIP: Columbus, Ohio 43228

DBA / TRADE NAME (IF APPLICABLE): _____

BUSINESS DESIGNATION: INDIVIDUAL (use Social Security No.) SOLE PROPRIETOR (use SS No. or Fed ID No.)
 CORPORATION (use Federal ID No.) PARTNERSHIP (use Federal ID No.)
 ESTATE/TRUST (use Federal ID no.) STATE OR LOCAL GOVT. (use Federal ID No.)
 OTHER / SPECIFY Limited Liability

SOCIAL SECURITY NO. _____ (Social Security #)

OR

FED. EMPLOYER IDENTIFICATION NO. 4 6 - 2 2 5 8 1 4 2 (Employer Identification #)

COMPLETE THIS SECTION IF PAYMENTS ARE MADE TO AN ADDRESS OTHER THAN THE ONE LISTED ABOVE:
REMIT TO ADDRESS: STREET / PO BOX: _____
CITY, STATE, ZIP: _____

Participation in this section is voluntary. You are not required to complete this section to become a registered vendor. The information below will in no way affect the vendor registration process and its sole purpose is to collect statistical data on those vendors doing business with NCDOT. If you choose to participate, circle the answer that best fits your firm's group definition.

What is your firm's ethnicity? (Prefer Not To Answer, African American, Native American, Caucasian American, Asian American, Hispanic American, Asian-Indian American, Other: _____)

What is your firm's gender? (Prefer Not to Answer, Male, Female) **Disabled-Owned Business?** (Prefer Not to Answer, Yes, No)

IRS Certification

Under penalties of perjury, I certify that

- The number shown on this form is my correct taxpayer identification and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the IRS that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. person (including a U.S. resident alien)

The IRS does not require your consent to any provision of this document other than the certifications required to avoid backup withholding. For complete certification instructions please see IRS FORM W-9 at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

Howard Luxhof, PE
NAME (Print or Type)

Principal and Managing Member
TITLE (Print or Type)


SIGNATURE

2/14/19 614-481-6799
DATE **PHONE NUMBER**

To avoid payment delays, completed forms should be returned promptly to:

**NC Department of Transportation
 Fiscal/Commercial Accounts
 1514 Mail Service Center
 Raleigh, North Carolina 27699-1514**

PHONE (919) 733-3624 FAX (919) 715-3700

ATTACHMENT G: CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-Contracts, sub-grants, and Contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to

a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, Transmap Engineering, PLLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Howard Luxhoj, PE
Principal and Managing Member

Name and Title of Contractor's Authorized Official

2/14/19 Date



**NORTH CAROLINA BOARD OF EXAMINERS
FOR ENGINEERS AND SURVEYORS**
4601 Six Forks Rd Suite 310
Raleigh, North Carolina 27609

Transmap Engineering, PLLC
5030 Transamerica Drive
Columbus, OH 43228

This is to Certify that:

Transmap Engineering, PLLC is licensed with the North Carolina Board of Examiners for Engineers and Surveyors, and is authorized to practice **engineering** under the provisions of Chapter 89C and 55B of the General Statutes of North Carolina.

This authorization must be renewed annually, and expires on June 30, 2019

License No. : P-1114



**THE NORTH CAROLINA BOARD OF
EXAMINERS FOR ENGINEERS
AND SURVEYORS**

Executive Director

POST IN PLACE OF BUSINESS

Issued 06/26/2018

Telephone
(919) 791-2000

FAX
(919) 791-2012

EMAIL Address
ncbels@ncbels.org

WEB Site
www.ncbels.org

POCKET CARD

North Carolina Board of Examiners for Engineers and Surveyors



This is to certify that
Howard C. Luxhoj
 is duly licensed and entitled to practice
Engineering
 until December 31, 2019 when this certificate expires.
 Registration Number: 038445 Status: CURRENT

Linda A. Thurman

Linda A. Thurman, Chair

Jonathan S. Care

Jonathan S. Care, Secretary

Receipt for Annual Renewal

Date: 1/9/2019 3:43:49 PM
 Order ID: AY1E1AE47648
 Fee: \$75.00

Registrant: Howard C. Luxhoj , License: 038445		
Business address Transmap Corporation 5030 Transamerica Dr Columbus , OH 43228	Mailing Address Transmap Corporation 5030 Transamerica Dr Columbus , OH 43228	Payment information Card: 5*****1 Expiration: 02 /20 Howard C. Luxhoj Transmap Corporation Columbus , OH 43228
Email: hluxhoj@transmap.com	PDH Reported:: 15.00 Your license status is: CURRENT	



February 14, 2019

Transmap
5030 Transamerica Drive
Columbus, OH 43228

RE: City of Greenville, NC MPO Pavement Condition Survey Update, RFP #18-19-17
BREE & Associates, Inc.
Minority Status: MBE|DBE|SBE

To Whom It May Concern:

BREE & Associates, Inc. is pleased to confirm our commitment to provide services to the Transmap team for the above-referenced project.

Our services for this project will include assisting with the field walk out QA/QC of Pavement/Assets and ADA compliance as needed.

We are pleased to verify that we are able to provide the required resources and services for this contract.

We look forward to working with the team on this exciting contract.

Sincerely,

A handwritten signature in blue ink, appearing to read 'RL', is written over a faint, light blue circular watermark.

Robert Lancaster, P.E., LEED AP
President and CEO



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

JAMES H. TROGDON, III
SECRETARY

July 26, 2018

BREE & Associates, Inc.
Robert Lancaster, President
5315 Highgate Drive, Suite 203
Durham, NC 27713-6623

SUBJECT: Approval of DBE Certification Review- Vendor # 50302

Dear Mr. Lancaster:

The annual review of your Disadvantaged Business Enterprise (DBE) certification has been approved by the North Carolina Department of Transportation.

In order to remain as an eligible DBE firm, you will be required to submit a declaration of no change to this office by your anniversary date of **September 30, 2019**.

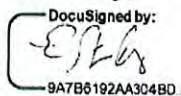
Failure to submit the declaration with appropriate supporting documentation on an annual basis will result in removal of your firm's DBE certification. The declaration will attest to the fact that no changes have occurred affecting your status as a Disadvantaged Business Enterprise, and that your personal net-worth has not exceeded \$1.32 million as required by federal regulations for economically disadvantaged individuals.

Should you experience any changes in ownership, management responsibility, specialty, address, email address, and/or telephone numbers, you are required to notify this office in writing within thirty (30) days of the change. Failure to inform this office of a change may result in removal of your firm's DBE certification status.

Please note that to work for the North Carolina Department of Transportation, you must be pre-qualified. Contact the Contractual Services Management Section at (919) 707-4800 for more information about pre-qualification.

Thank you for participating in the Disadvantaged Business Enterprise program. If you have any questions, then please contact me directly at ecruz@ncdot.gov.

Sincerely,

DocuSigned by:

9A7B6192AA304BD

Elizabeth Cruz
Lead DBE Certification Officer

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
OFFICE OF CIVIL RIGHTS
1511 MAIL SERVICE CENTER
RALEIGH, NC 27699

Telephone: (919) 508-1818
Fax: (919) 508-1818
Customer Service: 1-877-368-4968

Location:
104 FAYETTEVILLE STREET
RALEIGH, NC 27699

Website: www.ncdot.gov



North Carolina Department of Administration

Pat McCrory, Governor
Bill Daughtridge, Jr., Secretary

Office for Historically Underutilized Businesses
Dennis M. English, Jr., Asst. to the Secretary for
HUB Outreach

August 14, 2015

Robert Lancaster
BREE Associates, Inc. (Minority Owned)
3434 Edwards Mill Road
Suite 112-344
Raleigh, NC 27612-4276

Dear Robert Lancaster:

The Office for Historically Underutilized Businesses (HUB Office) is pleased to inform you that your company is now certified as a Historically Underutilized Business. Your firm is listed in the Statewide Uniform Certification (SWUC) Program database. This certification will remain in effect for four (4) years from the date of this letter, contingent upon submission of your 'Annual Status Update Affidavit' each year prior to your certification renewal date. If you fail to submit the 'Annual Status Update Affidavit' your HUB Certification shall be Revoked.

You must notify the HUB Office in writing within 30 days of any changes affecting your compliance with SWUC Program eligibility requirements, including changes in ownership, day-to-day management and operational control. Failure to notify the HUB Office of these changes or reapply for certification in a timely manner may cause your HUB Certification to be revoked. Also, it is important to maintain current contact information such as address, telephone number, and email address in the SWUC Program database.

The HUB Office collaborates with local Minority/Women/Small Business (M/W/SBE) Offices who offer assistance to certified HUB firms with identifying contract opportunities with state and local government. Many of these offices also offer assistance with business development. Please visit our website at www.doa.nc.gov/hub/swuc.htm to locate the local office near you. Another great resource is the Small Business and Technology Development Center at www.sbtcd.org for free personalized business assistance and counseling.

It is important to note that although your status as a certified HUB firm greatly improves your access to state and local government contracts, this certification does not guarantee contract awards. Your ability to research opportunities and bid competitively will be important to your success in this program.

Thank you for your interest and participation in the SWUC Program as a Historically Underutilized Business firm with the State of North Carolina.

Sincerely,

Bradley Hicks

Bradley Hicks
Certification Specialist

Mailing Address:

Office for Historically Underutilized Businesses
Department of Administration
1336 Mail Service Center
Raleigh, NC 27699-1336

Telephone (919) 807-2330
Fax (919) 807-2335
State Courier #51-01-00

Location:

116 West Jones Street
Administration Building
Suite 4109
Raleigh, NC 27603

An Equal Opportunity/Affirmative Action Employer

4120 BAYSWATER RD
WINTERVILLE, NC 28590

P.O. BOX 2126
GREENVILLE, NC 27836



COMPLETE *Printing* SERVICES

www.morganprinters.com

Office: 252-355-5588
Fax: 252-756-2559
Toll Free: 1-800-962-1972

February 7, 2019

To Whom It May Concern,

Morgan Printers, Inc. agrees to provide services for Transmap Engineering, PLLC in North Carolina if selected for the City of Greenville, North Carolina's Request For Proposal #18-19-17, Roadway Pavement Condition Survey Update. Morgan Printers, Inc. is a certified Women's Business Enterprise (WBE) in the State of North Carolina.

Lydia J. Morgan, CEO



North Carolina
Department of Administration
Office for Historically Underutilized Businesses

Machelle Sanders
Secretary

Tammie Hall
Director

October 29, 2018

Lydia Morgan
MORGAN PRINTERS INC (Woman Owned)
Po Box 2126
Greenville, NC 27836

Dear Lydia Morgan:

The Office for Historically Underutilized Businesses (HUB Office) is pleased to inform you that your company is now certified as a Historically Underutilized Business. Your firm is listed in the Statewide Uniform Certification (SWUC) Program database. This certification will remain in effect for four (4) years from the date of this letter.

You must notify the HUB Office in writing within 30 days of any changes affecting your compliance with SWUC Program eligibility requirements, including changes in ownership, day-to-day management and operational control. Failure to notify the HUB Office of these changes or reapply for certification in a timely manner may cause your HUB Certification to be revoked. In addition, please be advised your status may be changed if there is a 3rd party challenge granted against your firm. The link to the HUB Office 3rd party challenge form can be located at <http://www.doa.nc.gov/hub/documents/ThirdpartyEligibilityChallengerev080811.pdf>. All information submitted to the Office for Historically Underutilized Business is subject to audit and review.

The HUB Office collaborates with local Minority/Women/Small Business (M/W/SBE) Offices who offer assistance to certified HUB firms with identifying contract opportunities with state and local government. Many of these offices also offer assistance with business development. Please visit our website at <http://www.doa.nc.gov/hub/programs.aspx?pid=swuc> to locate the local office near you. Another great resource is the Small Business and Technology Development Center at www.sbtcd.org for free personalized business assistance and counseling.

It is important to note that although your status as a certified HUB firm greatly improves your access to state and local government contracts, this certification does not guarantee contract awards. Your ability to research opportunities and bid competitively will be important to your success in this program. We are committed to assisting you through the process with the completion of the Preliminary Business Development and Supportive Services Assessment Survey, located on the HUB Office website under the Certification Tab. The information will provide an overview of your company which will assist us in appropriately aligning contract opportunities that you are ready, willing and able to pursue.

Thank you for your interest and participation in the SWUC Program as a Historically Underutilized Business firm with the State of North Carolina.

Sincerely,
Tammie Hall

Tammie Hall
Director

APPENDIX C: Schedule of Work

Transmap Engineering, PLLC
Greenville Urban Area MPO, NC
Day Schedule Appendix C

4/3/2019

Task	# of Days
Notice to Proceed	1
Project Kick-off Meeting	1
MPO staff needs to be part of Kick-off	TBD
Mobilization	up to 30
ON-SIGHT Raw Data Collection	10 - 15
Post Processing	9 - 12
Network Level ASTM Inspection	27 - 54
FWD/GPR Processing (Optional)	5 - 15
MicroPAVER QA/QC load	3
Walkout Inspection QA/QC	4
Final MicroPAVER Load - Delivery PCI load	2
PCI Results Delivered	1
Pavement Boot Camp	2
Pavement Reporting	10 - 15
Pavement Software Training	2 - 4
Asset Extraction	30 - 90
ADA Compliance	15 - 30
Transmap Project Management (on-going during project)	

*Project will start once notice to proceed is given to Transmap and vehicle is mobilized to Project area

Project timeline is subject to change because of the following factors; MPO staff availability for meetings, data requested by Transmap to the MPO, weather (can not drive on wet roads or when temps are below 34 degrees)



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Presentation of the proposed Fiscal Year 2019-20 operating budget for the following entities:

- a. Pitt-Greenville Convention & Visitors Authority
- b. Sheppard Memorial Library
- c. Greenville Utilities Commission

Explanation: **Abstract:** Staff from the Pitt-Greenville Convention and Visitors Authority, Sheppard Memorial Library, and Greenville Utilities Commission will present their proposed fiscal year 2019-20 operating budgets.

Explanation: During the May 20, 2019 City Council meeting, representatives from the Pitt-Greenville Convention and Visitors Authority, Sheppard Memorial Library, and Greenville Utilities Commission will present their proposed fiscal year 2019-20 operating budget.

In compliance with Section 160A-148(5) of the North Carolina General Statutes, the City Council will hold a public hearing on Monday, June 10, and consider adopting the annual budget ordinance on Thursday, June 13.

Fiscal Note: The final amount for the City's budget will be determined by City Council action at the June 13, 2019, City Council meeting.

Recommendation: Receive the presentation on the proposed fiscal year 2020 operating budget, and provide feedback and direction.

ATTACHMENTS:

- ▣ CVA Budget Presentation**
- ▣ CVA Budget Message**
- ▣ CVA Goals & Objectives**
- ▣ CVA Budget Charts**
- ▣ SML Budget Documents**
- ▣ GUC Budget Documents**

Convention & Visitors Authority

2019-2020 Fiscal Year Budget

CVA Mission

*To foster an environment of superior travel
and tourism experiences.*

CVA Strategic Goals

Goal 1: Increase convention sales/citywide conferences and events achieving both micro and macro goals

Goal 2: Grow the number of sports tournaments per year and encourage economic development of sporting facilities

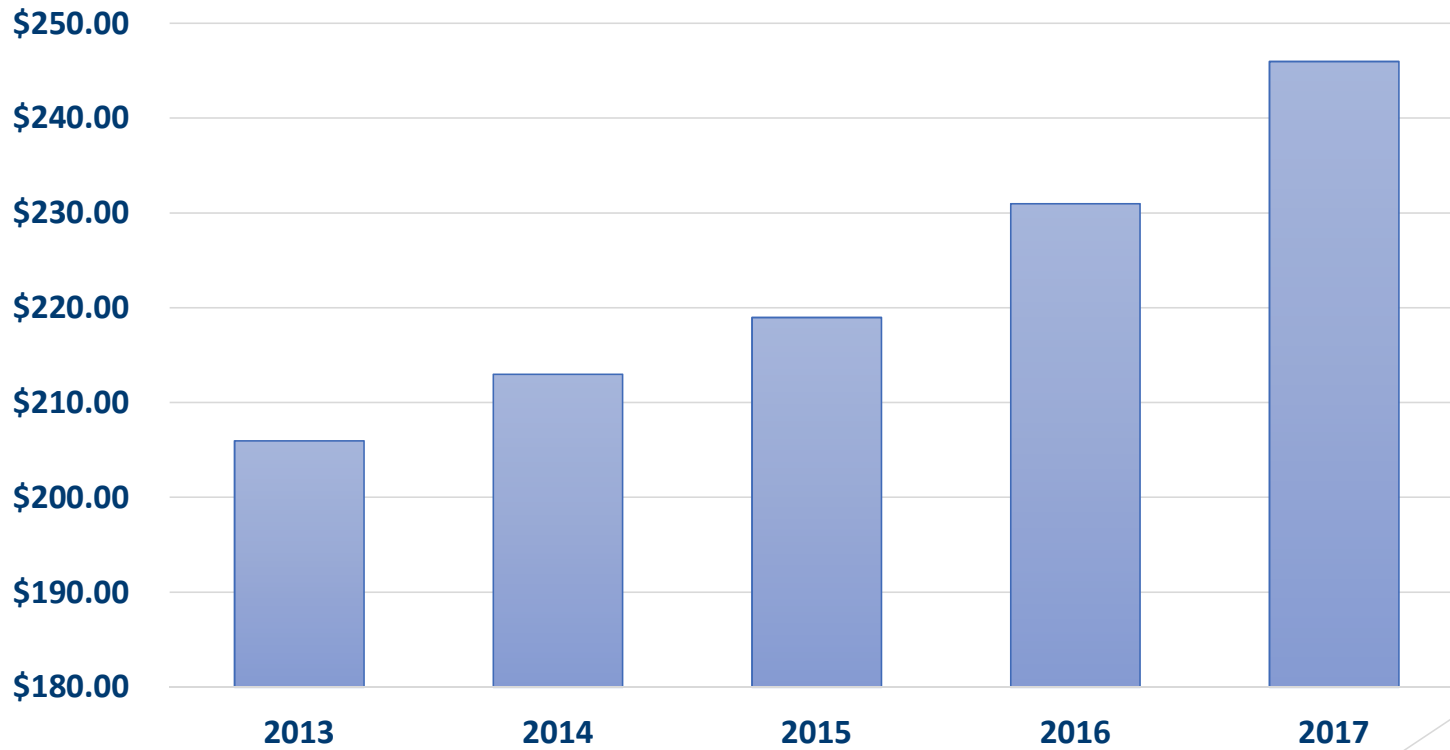
Goal 3: Promote Greenville and Pitt County as an arts and entertainment destination while encouraging and working with partners to increase arts related infrastructure and venues

Goal 4: Assist in the activation of both the Town Common and Tar River for leisure-related travel to Greenville and Pitt County

Goal 5: Launch an African-American Cultural Trail using the Sycamore Hill Gateway as a launching point

Greenville-Pitt County Tourism Expenditures 2013-2017

Expenditures in millions \$



CVA Board Members

- ❖ Four hotel owner/operators
- ❖ Two hospitality related positions
- ❖ Four citizens interested in the hospitality industry
- ❖ City and County liaison
- ❖ City finance officer

CVA Budget Approval Process

- ❖ CVA Executive Committee
- ❖ CVA Board of Directors
- ❖ Greenville City Council
- ❖ Pitt County Board of Commissioners

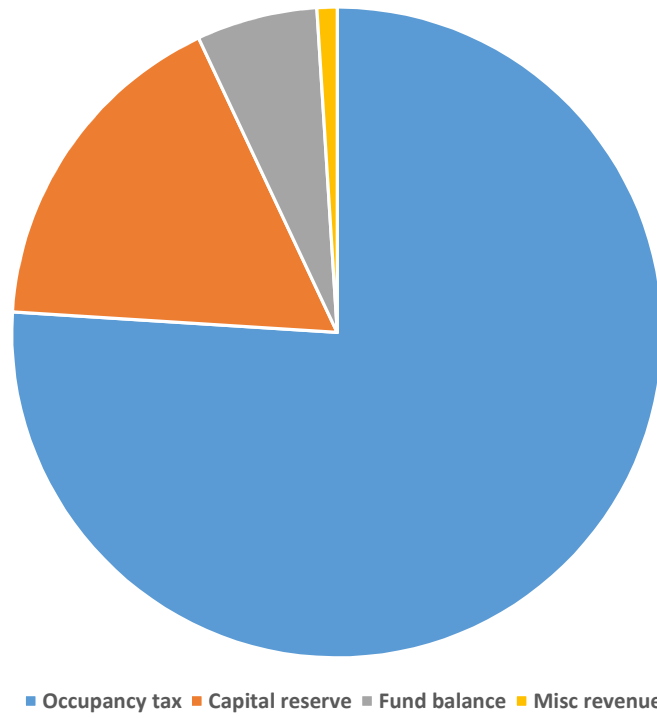
The CVA does not receive any revenues from the general fund

- ❖ All revenues received are from the occupancy tax
- ❖ No city or county supplement
- ❖ No membership revenue
- ❖ Occupancy taxes continue steady growth
- ❖ AirBnB's numbers continue to grow

Revenues

- ❖ Current occupancy tax revenues are up 7.0% over last year's collections
- ❖ 2019-2020 fiscal year budget is calculated with an estimated 5% increase in occupancy tax collections
- ❖ Increase in convention, sports, and leisure travel
- ❖ Smith Travel Research Reports show higher ADR and REVPAR

CVA Revenue Sources



FY 2019-2020 Budget

Fiscal year budget for
2019-2020 is set at:

\$1,599,081.61

Occupancy Tax Collections:

\$1,222,020.08

Capital Reserve:

\$275,000.00

Miscellaneous Revenue:

\$481.59

*Fund Balance:

\$99,579.22

FY 2019-2020 Budget Highlights

- ❖ Increase in Marketing
- ❖ Increase in Advertising
- ❖ Website
- ❖ Branding of Sports Council
- ❖ Investment in CRM resources

FY 2019-2020 Budget Highlights

- ❖ Budget includes receipts from once cent of the occupancy tax collections for marketing of the Greenville Convention Center

2019-2020 Projection: \$408,006.90

- ❖ Funds allocated on a monthly basis

Questions?



GREENVILLE-PITT COUNTY
CONVENTION & VISITORS BUREAU

April 29, 2019

Dear Mayor, Mayor Pro-Tem and Members of City Council:

The Convention & Visitors Authority, in conjunction with its hospitality partners, continues to make great progress in establishing Greenville and Pitt County as a competitive hospitality destination throughout the state of North Carolina. In 2017, tourism expenditures in Pitt County totaled 246.5 million dollars and generated 5.53 million dollars in local taxes resulting in a tax savings of \$104.28 per resident. These tourism numbers rank Greenville among the top 20% of tourism generating destinations across our state and we continue to gain ground each year against other municipalities.

The cornerstone of the 2019-2020 CVA budget is centered on achieving our established goals and objectives as set forth by the CVA board of directors and CVB staff. We are excited to announce that funds have been earmarked to start a Sports Council for the City of Greenville in fiscal year 2019-2020. These dollars will allow us to both brand Greenville as a sports destination and attract bigger tournaments and events. Funds have also been set aside for CVB rebranding as well as a comprehensive re-design of the CVB's website.

Over the next twelve months, the Convention and Visitors Bureau's budget is based on projected revenue from the hotel-motel occupancy tax collections. Our budget is conservatively based off a 5% increase in collections for the fiscal year. The budget also reflects the use of a small amount of fund balance which is helping to cover the costs of our board approved projects over the next fiscal year. It is possible that the CVA will not need to utilize the current level of fund balance within the proposed budget as occupancy taxes will likely come in higher than 5% for the current period.

This proposed budget has been approved by our CVA executive committee, our full CVA board and is ready for consideration by the Greenville City Council. The CVA appreciates the continual support of the Greenville City Council and looks forward to working with each member to make Greenville and Pitt County a preferred destination for conventions, meetings, reunions, events, and leisure travel.

Sincerely,

A handwritten signature in black ink that reads 'Andrew D. Schmidt'.

Andrew D. Schmidt, CHME, MPA
Executive Director

2019-2020 Budget Highlights

1. The 2019-2020 budget reflects the investment of \$275,000 from the CVA's Capital Reserve Account to start a Sports Council for the City of Greenville and Pitt County. The CVA will be receiving this sum each year until the first issuance of debt for the initial construction of the convention center rolls off during the 2026-2027 fiscal year. This will help to stabilize the CVA's fund balance and allow for more aggressive marketing of our destination in a variety of ways. The proposed 2019-2020 fiscal year budget is based on a 5% increase in occupancy tax revenue for the current year and some fund balance to complete the scheduled re-vamping of the CVB's website, pay for creative costs associated with re-branding, and the initial branding of the sports council. The original fund balance approved for the 2018-2020 budget cycle was \$200,000. With additional funding coming from Capital Reserve to start the sports council, the fund balance now required to complete established projects can be reduced to \$99,579.22.* **After the 2019-2020 fiscal year, it is anticipated that no fund balance withdrawals should be needed moving forward for future year budgets.**

*The 2019-2020 budget is being calculated with a 5% increase in occupancy tax revenues. Currently, there is an 8.1% increase in revenues. The forecast for the spring looks good and we anticipate this rate of increase to hold or possibly increase slightly. Each 1% increase from the 5% budgeted amount would add approximately \$12,240.00 to collections so in reality the amount of fund balance required to complete projects would be closer to \$63,000 at the 8% level.

2019-2020 proposed budget-\$1,599,081.61

2. Salary line item has been adjusted to absorb an expected COLA from the city (2.7%) and merit should any be awarded.
3. The convention center marketing fund for next year is based on a 5% increase. Currently, we are at an 8.1% increase.

2019-2020 proposed convention center marketing fund-\$408,006.90

4. Fund balance currently sits at \$1,036,096 for the CVA. Board policy currently reads that the CVA may not fall below \$750,000 in fund balance without board approval. In the 2019-2020 fiscal year, I propose utilizing \$99,579.22 of fund balance leaving a reserve of \$937,096 for future needs. As state above, this is the last year that I anticipate needing fund balance for projects. As also stated above, it is likely that revenues will come in higher than the 5% projection leading to less fund balance needed and actually utilized.
5. Hotel inventory in fiscal-year 2019-2020 will not change. There are one or two hotel projects being discussed which should have a positive effect on our numbers down the road. There has been a 24% increase in the number of AirBnB's (currently 184 rentals in Pitt County) which will have a small positive effect since they are now paying occupancy taxes.
6. The CVB does not plan to bring on any additional staff members during the 2019-2020 fiscal year.

Remedies should occupancy tax remain stagnant or economic downturn.

*The CVA has two members that are scheduled to retire during the 2019-2020 fiscal year. Should revenues remain stagnant or the industry experience an economic downturn, a position could be frozen and not re-hired for right away if needed.

**The CVB is currently exploring additional funding options:

- Food and Beverage tax for Greenville and Pitt County
- Voluntary Tourism Improvement District with Greenville-Pitt hotels

CONVENTION & VISITORS BUREAU BUDGET PROPOSAL-FISCAL YEARS 2019 and 2020

<u>ACCOUNT DESCRIPTION</u>	FY 2016	FY 2017	FY 2018	FY 2019	FY 2019	FY 2020
	ACTUAL	ACTUAL	ACTUAL	MGR REQ	YTD (2/18/19)	MGR REQ
OCCUPANCY TAX	\$637,707.62	\$766,949.13	\$777,156.46	\$797,627.10	\$426,303.64	\$816,013.90
1% OCCUPANCY TAX	\$318,853.81	\$383,474.57	\$388,578.23	\$398,813.55	\$213,151.82	\$408,006.90
CAPITAL RESERVE						
INT/INVEST EARNINGS	\$60.17	\$60.32	\$60.19	\$60.64		\$275,000.00
APPROPRIATED FUND BAL	\$142,546.52	\$140,639.87	\$134,208.12	\$200,000.00	\$200,000.00	\$481.59
BUDGET AMENDMENT*						\$99,579.22
TOTAL CVB REVENUES	\$1,099,168.12	\$1,291,123.89	\$1,300,003.00	\$1,396,501.29	\$839,455.46	\$1,599,081.61
<u>ACCOUNT DESCRIPTION</u>	FY 2016	FY 2017	FY 2018	FY 2019	FY 2019	FY 2020
	ACTUAL	ACTUAL	ACTUAL	MGR REQ	YTD	MGR REQ
SALARIES-PERMANENT	\$321,141.63	\$338,139.21	\$364,936.52	\$398,244.83	\$226,700.37	\$421,157.07
SALARIES-SALES INCENTIVE		\$5,000.00		\$5,000.00		\$7,500.00
OPEB				\$6,000.00		\$9,000.00
CAR ALLOWANCE	\$2,807.14			\$3,900.00		\$3,900.00
FICA EXPENSE	\$24,475.13			\$29,567.74	\$16,666.48	\$32,967.74
GROUP LIFE	\$954.17	\$1,552.96	\$27,097.85	\$1,600.00	\$853.61	\$1,700.00
RETIREMENT	\$21,386.41	\$24,616.17	\$26,441.44	\$27,077.00	\$17,221.57	\$29,193.60
HEALTH/DENTAL INSURANCE	\$47,003.11	\$55,855.28	\$60,345.16	\$68,041.56	\$41,036.58	\$75,484.82
WORKERS COMP				\$2,000.00		\$2,000.00
UNEMPLOYMENT COMP	\$317.07	\$278.69		\$500.00	\$16.79	\$500.00
401K REGULAR EMP	\$6,274.63	\$6,249.60	\$5,463.80	\$7,280.00	\$3,103.40	\$7,280.00
GAFC	\$188.35	\$658.73	\$660.63	\$850.00	\$519.10	\$850.00
*PERSONNEL	\$424,547.64	\$458,081.98	\$486,513.24	\$550,061.13	\$306,117.90	\$591,533.23
PRINTING	\$22,838.46	\$23,162.83	\$19,174.17	\$42,500.00	\$21,590.69	\$47,500.00
TRAVEL/MARKETING	\$58,028.24	\$81,453.84	\$107,825.56	\$95,000.00	\$70,977.68	\$115,000.00
MAINTENANCE & REPAIR	\$1,195.69			\$3,000.00	\$1,444.60	\$3,000.00
SUPPLIES & MATERIALS	\$8,570.27	\$6,735.66	\$5,059.59	\$8,000.00	\$7,803.15	\$8,000.00
CONTRACTED SERVICES	\$33,396.84	\$87,794.38	\$47,116.58	\$40,000.00	\$30,829.74	\$95,000.00

COST OF COLLECTION	\$ 14,507.22	\$ 17,209.10	\$ 17,723.35	\$ 17,946.61	\$ 10,149.59	\$ 18,664.48
DUES/SUBSCRIPTIONS	\$ 13,595.50	\$ 16,353.09	\$ 15,346.91	\$ 15,000.00	\$ 5,483.55	\$ 22,000.00
ADVERTISING	\$ 119,029.02	\$ 187,813.28	\$ 135,516.29	\$ 115,000.00	\$ 95,400.30	\$ 160,000.00
POSTAGE	\$ 2,913.86	\$ 4,394.39	\$ 7,920.12	\$ 5,500.00	\$ 2,668.32	\$ 8,000.00
TELEPHONE/CELL ALLOWANCE	\$ 2,214.87	\$ 664.73	\$ 770.70	\$ 6,900.00	\$ 2,918.58	\$ 7,000.00
UTILITIES/RENT	\$ 38,501.99	\$ 40,497.75	\$ 38,835.46	\$ 41,080.00	\$ 26,219.50	\$ 42,677.00
GENERAL INSURANCE LIAB.	\$ 1,200.00	\$ 1,200.00	\$ -	\$ 1,200.00	\$ -	\$ 1,200.00
DIR./OFFICERS LIAB. INS.	\$ -	\$ -	\$ 1,200.00	\$ 1,500.00	\$ -	\$ 1,500.00
CONTINGENCY	\$ 3,812.00	\$ 1,461.35	\$ 5,091.15	\$ 5,000.00	\$ 1,813.24	\$ 8,000.00
CONVENTION CTR MARKETING	\$ 320,332.00	\$ 321,098.00	\$ 384,046.73	\$ 398,813.55	\$ 248,503.65	\$ 408,006.90
CONVENTION INCENTIVES	\$ 7,689.59	\$ 8,156.61	\$ 9,629.12	\$ 12,000.00	\$ 11,128.79	\$ 12,000.00
TOURISM PROJECTS/SPONSOR	\$ 21,553.28	\$ 60,809.91	\$ 39,026.27	\$ 38,000.00	\$ 24,905.40	\$ 50,000.00
*OPERATING	\$ 669,378.83	\$ 858,804.92	\$ 834,282.00	\$ 846,440.16	\$ 561,836.78	\$ 1,007,548.38
*CAP PROJ/EQUIPMENT	\$ 5,241.65	\$ -	\$ -	\$ -	\$ -	\$ -
YTD Variance						
TOTAL CVB EXPENSES	\$ 1,099,168.12	\$ 1,316,886.90	\$ 1,317,795.24	\$ 1,396,501.29	\$ 831,940.29	\$ 1,599,081.61

SHEPPARD MEMORIAL LIBRARY

FY 2019-2020 Budget



BOARD OF TRUSTEES

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Greg Needham, Library Director / Executive Secretary to the Board of Trustees

March 21, 2019

To: € Ann Wall, City Manager
€ Michael Cowin, Assistant City Manager
€ Byron Hayes, Director of Financial Services
€ Shelley Z. Leach, Financial Analyst

From: Greg Needham, Director of Libraries

RE: 2019-2020 Sheppard Memorial Library Budget Request

Attached is the 2019-2020 Sheppard Memorial Library system budget request to the City of Greenville. Sheppard Memorial Library requests \$1,308,057 for FY 19-20.

The total amount of funding requested from Pitt County is \$654,028. Anticipated revenue from State Aid is set by the State Library of North Carolina.

I appreciate the opportunity to submit this budget request to the City of Greenville, and I will be glad to answer any related questions you may have.

Thank you for your consideration!

THE SHEPPARD MEMORIAL LIBRARY SYSTEM

The Sheppard Memorial Library system consists of the main library, the Pitt County Bookmobile, and four branch facilities. The main library and two of the branches are located in the City of Greenville, one branch is located in the Town of Winterville, and another branch is located in the Town of Bethel. Operating funds for the libraries in Greenville and the Pitt County Bookmobile are funded by the City of Greenville and Pitt County. Operating costs for libraries in Winterville and Bethel are paid for by those towns, as well as support from Pitt County, and by revenues generated from the operation of these facilities. The Sheppard Memorial Library system receives the Pitt County appropriation of State public library funding because it is recognized as the county library system.

MISSION STATEMENT FOR 2018 – 2023

Sheppard Memorial Library promotes the joys of reading, life-long learning, creativity, and economic growth. It collects and maintains diverse, comprehensive knowledge resources which nourish enlightenment, critical thinking, literacy, and understanding throughout the region.

In an era of consistent change, Sheppard Memorial Library offers stability and reliability to its community.

The library's primary mission is to provide high-interest material in a variety of formats and locations thereby allowing access and use of its collections and resources by as many individuals as possible.

The library supports both formal and informal education endeavors of persons in the community. It particularly supports reading and learning for children and assisting students in meeting objectives established during formal courses of study.

The library aggressively seeks to add to the knowledge infrastructure of Pitt County in order to support the vitality of the future knowledge-based economy. In this way it contributes to the economic development of the community.

The library's staff is composed of highly effective information specialists who assist library users in locating authoritative, timely, non-biased information among the myriad of possible sources. They aid persons in finding answers to everyday problems as well as issues that move beyond facts and data to knowledge and enlightenment.

Recognizing the need to remain current with the times, Sheppard Memorial Library regularly reviews its mission to ensure that the System is providing maximum benefit to its service area.

GOALS

The library system will provide welcoming physical “public” spaces that foster a sense of community, encourage the free flow of ideas, increase the availability of resources, and add to the information infrastructure of Greenville and Pitt County.

The library system will provide welcoming “virtual” public spaces that foster a sense of community, and enrich the information base of the service area by offering access to resources not readily available through Internet sites.

The Library system will offer its service community a rich array of Programs (individual and group activities) that foster intellectual activity, promote the joys of reading, and encourage life-long learning and creativity.

The library offers comprehensive knowledge resources which nourish enlightenment, critical thinking, literacy, and understanding throughout the region. The library’s collections provide a variety of high interest material in a variety of formats and locations thereby allowing access and use of its collections and resources by as many individuals as possible.

The library’s staff is composed of well trained, service-oriented, employees who effectively assist library users in locating authoritative, timely, non-biased information among a myriad of possible sources. They aid persons in finding answers to everyday problems as well as issues that move beyond facts and data to knowledge and enlightenment.

Quality library service is not free; the Library will actively seek sources of revenue to fulfill its mission. These sources of revenue will include public and private sources.

Sheppard Memorial Library will reach out to the other public and institutional libraries in the community to enhance the service for all library users in Greenville and Pitt County.

Recognizing the vital role of technology in today’s library world, Sheppard Memorial Library will provide adequate supplies of current state-of-the art means of information delivery.

Recognizing the vital role of communications in alerting the public to services and resources, the Library will reach out through the media and other means to inform the public about its offerings.

Sheppard Memorial Library General Fund Library Board Approved 2019-2020 Budget

REVENUE	FY 17-18 Actual	3/20/2019 FY 18-19 Library Board Approved Budget	3/20/2019 FY 19-20 Library Board Approved Budget
City of Greenville	\$1,232,969	\$1,269,958	\$1,308,057
County of Pitt	\$592,718	\$601,194	\$654,028
County of Pitt - Bethel/W'ville	\$12,000	\$12,000	\$12,000
Town of Bethel	\$21,108	\$21,108	\$21,108
Town of Winterville	\$165,300	\$165,300	\$165,300
State Aid	\$197,263	\$190,682	\$197,262
Desk Receipts	\$111,059	\$110,500	\$112,500
Interest Income	\$1,358	\$1,500	\$1,500
Miscellaneous Inc.	\$40,070	\$38,456	\$32,000
Greenville Housing Authority	\$10,692	\$10,692	\$10,692
Trans In from Fiduciary Fund	\$0	\$4,776	\$0
Capital Projects	\$0	\$0	\$0
Fund Balance	\$0	\$63,115	\$40,172
TOTAL REVENUE	\$2,384,537	\$2,489,281	\$2,554,619
EXPENDITURES			
Personnel	\$1,553,655	\$1,621,504	\$1,710,960
Operations	\$726,581	\$821,618	\$820,967
Greenville Housing Authority	\$11,033	\$10,692	\$10,692
Capital - Bookmobile	\$158,613	\$0	\$0
Capital - Computer Equipment	\$0	\$22,577	\$12,000
Capital - Generator	\$0	\$12,890	\$0
TOTAL EXPENDITURES	\$2,449,882	\$2,489,281	\$2,554,619

Library Board Approved Budget for 2019 – 2020

REVENUES

City of Greenville	\$1,308,057
County of Pitt	\$654,028
County of Pitt: Bethel/W'ville	\$12,000
Town of Bethel	\$21,108
Town of Winterville	\$165,300
State Aid	\$197,262
Desk Receipts	\$112,500
Interest Income	\$1,500
Miscellaneous Income	\$32,000
G'ville Housing Authority	\$10,692
Federal Grants	\$0
Capital Income	\$0
Fund Balance	\$40,172
TOTAL REVENUES	\$2,554,619

PERSONNEL EXPENDITURES

Salaries	\$1,276,148
FICA Tax (Social Security)	\$97,625
Retirement	\$79,718
Hospitalization	\$221,349
401k	\$26,120
Unemployment Insurance	\$5,000
Worker's Compensation	\$5,000
SUBTOTAL PERSONNEL	\$1,710,960

OPERATING EXPENDITURES

Telephone Expense	\$13,000
Postage	\$3,000
Utilities	\$142,000
Travel Expense	\$1,500
Building Maintenance	\$151,000
Equipment Maintenance	\$114,220
Fuel & Vehicle Maintenance	\$4,900
Office Supplies	\$57,000
Business Services	\$25,717
Periodicals	\$16,073
Books	\$190,000
Audio Visual	\$23,000
E-Services	\$59,740
Vehicle/Liab. Insurance	\$15,817
Miscellaneous Expense	\$4,000
SUBTOTAL OPERATING	\$820,967

OTHER EXPENDITURES

G'ville Housing Authority	\$10,692
Capital Expense	\$12,000
TOTAL ALL EXPENSES	\$2,554,619



Greenville Utilities Commission
Greenville City Council
Customers of Greenville Utilities

Ladies and Gentlemen:

Greenville Utilities Commission (GUC) is pleased to present for your consideration the proposed FY 2019-20 Budget which was developed using the values and objectives identified in our “Blueprint – GUC’s Strategic Plan.” Our focus on growing the region, safely providing reliable and innovative utility solutions, and providing an exceptional customer service experience still remain the heart of everything we do.

GUC provides electric, water, sewer, and natural gas services. Operating as a utility providing all four of those services differentiates GUC from most other utilities around the country.

Management Objectives

GUC’s financial budget goals focus on several key metrics including end-of-year performance, debt service coverages, and fund balances. The long-term sustainability of each fund is also taken into consideration to ensure that GUC is poised to continue to meet its mission and future financial challenges.

Guiding all budgetary decisions is GUC’s commitment to provide exceptional service while maintaining a viable financial position. In monitoring our strategic plan, GUC utilizes Key Performance Indicators at the corporate level on a consistent and routine basis. To that end, GUC’s budget goals are designed to achieve the following:

- Safely provide reliable utility solutions, at the lowest reasonable cost
- Exceptional customer service in an environmentally responsible manner
- Position GUC to achieve greater efficiencies
- Continue to meet regulatory requirements
- Minimize rate increases
- Avoid future rate shock
- Maintain key performance indicators for each fund
- Be operationally and financially prepared for emergency situations
- Be prepared for growth and expansion opportunities
- Preserve and/or improve bond ratings

Highlights of the FY 2019-20 operating budget are listed below:

- Expenditures budgeted for FY 2019-20 have increased by 2%, or \$5.5M, when compared to the FY 2018-19 budget. Key points are:
 - \$3.4M increase in purchased power
 - \$2.7M decrease in purchased gas
 - \$1.7M decrease in debt service
 - \$250K increase in transfers to rate stabilization
 - \$3.7M increase in transfers to capital projects
 - \$2.0M increase in operations
- No rate adjustment for the Electric Fund
- A 7.0% rate increase for the Water Fund, 0.6% less than projected last year
- No rate adjustment for the Sewer Fund, 3% less than projected last year
- No rate adjustment for the Gas Fund
- Funding for salary market/merit adjustments at 2.7%
- Continuation of a self-insured health insurance plan which includes a high-deductible Health Savings Account option
- Continuation of self-insured dental insurance plan
- Funding to hire replacements prior to the retirement of key personnel to facilitate succession planning, leverage the knowledge and experience of long-term employees for training on critical issues, and ensure smooth transitions
- Existing positions have been reallocated and six permanent positions have been added to appropriately respond to needs within the combined enterprise operation
- Transfer of \$500K to Other Post-Employment Benefits (OPEB) Trust
- Funding for increase in LGERS employer contribution from 7.75% to 8.95% - \$350K
- Transfer of \$150K to City's housing energy conservation program
- Commitment of \$500,000 to participate as a sustaining member in the public-private economic development partnership
- Investment of \$11.4M for capital outlay to maintain system reliability and comply with regulatory requirements
- Annual turnover or transfer of \$6.6M to the City of Greenville, in accordance with the Charter issued by the North Carolina General Assembly
- GUC continues to make investments in capital projects to maintain reliability, meet ongoing regulatory requirements, and remain strategically positioned to facilitate growth. To that end, GUC will be establishing capital projects totaling \$10.65M.

Key Factors Affecting the Fiscal Year 2020 Budget

As GUC begins its 114th year of providing utility services, many challenges and opportunities present themselves regarding the development of the budget.

Commodity Costs

The largest expenditures in the 2019-20 budget are for the purchased commodities of electricity and natural gas. Ensuring a constant, steady, and reasonably priced supply of power and natural gas is one of the most important challenges.

The supply of electricity is influenced by many factors including the cost of fuel for generation, the availability of that supply and many economic and international events. Electric supply can often be impacted by outages at nuclear plants, unplanned maintenance and repairs for reactors and generators, and price fluctuations in fossil fuels. The delivery of electricity to GUC through long transmission lines can be impacted by weather or major damages due to use and obsolescence.

The supply of natural gas for GUC, which is primarily dependent on sources located in the Gulf of Mexico, offers challenges as well. Weather is always a factor in the delivery of utility services. Events, such as hurricanes and winter storms, can impact the flow of natural gas to our area and can result in higher purchase prices for the commodity and higher delivery costs. Interruptions or price spikes impact costs, but can also impact revenues as consumers often use less gas as prices rise.

To address these issues, GUC has entered into contracts to provide a constant and steady supply of electricity. The utility utilizes peak generation at major users on the system to offset periods of heavy load. Contracts are in place to provide mutual aid from other utilities to offer assistance when major weather events cause disruptions.

The Gas Fund operates a liquefied natural gas plant to inject natural gas into the system during periods of high usage. This fuel is shipped to the plant by truck and provides an alternative for a portion of customer demand as needed.

Capital Investment

GUC serves more than 157,000 customer connections across all four operating funds. With local economic development on the rise in our service areas, GUC is preparing for increased customer growth of the operating systems. Additions and expansions are planned for the operating plants and operations center resulting in increased investments in capital spending. Capital spending and the associated debt to finance the strategic investment in infrastructure is a major driver of the budgeting process and impacts rates for all funds. GUC has implemented a debt management plan to provide an orderly plan of capital investment and to maintain the integrity of utility rates and the impact on customers. As part of the annual

budget process a five-year financial plan and a capital spending plan are prepared to identify the spending needed and sources of funding.

The largest capital project GUC has undertaken is the new operations center. The purpose and value of this project is to relocate GUC's current operations center from a flood prone area to strategic high ground to allow unimpeded operations during severe weather and flooding. The relocation also allows for modernization and expansion that is not currently facilitated due to site congestion and development restrictions within flood plains.

GUC is also preparing for the new water treatment plant expansion project. Since the last expansion in 2002, the customer base and system demands continue to increase. The project will expand the water treatment plant from its current capacity of 22.5 million gallons per day (mgd) to 32 mgd to provide sufficient capacity for future economic expansion in the Greenville region.

Operational Excellence

Federal, State and local regulations continue to impact all of GUC's operating funds. Regulations concerning the siting and construction of new generation plants, reliability standards, homeland security, employee safety, renewable resource mandates, and quality standards are all contributing to costs and will continue to impact rate strategies.

In 2018, GUC's Electric Department received the American Public Power Association's (APPA) highest award, RP3 Diamond Designation, for providing customers with the highest degree of safe and reliable electric service. Public power utilities must demonstrate proficiency in reliability, safety, workforce development, and system improvement. GUC's overall system reliability is at 99.994%, which is a testament to the quality work our employees do every day.

The Association of Metropolitan Water Agencies' (AMWA) Gold Award was awarded to GUC for exceptional utility performance. The Gold Award recognizes large public drinking water utilities that exhibit high levels of performance in many areas including product quality, customer satisfaction, infrastructure strategy and performance, and water resource sustainability.

The Gas Department was the recipient of the 2018 System Operational Achievement Recognition Award (SOAR) which recognizes demonstrated commitment to excellence in safely delivering natural gas to its customers. The Government Finance Officers Association of the United States and Canada (GFOA) presented the Distinguished Budget Presentation Award to GUC for its Annual Budget for the fiscal year beginning July 1, 2018. In order to receive this award, a governmental unit must publish a budget document that meets program criteria as a policy document, an operations guide, a financial plan, and a communications device. GUC has received this award for the past three years.

Personnel Funding

GUC recognizes that employees are the most valuable asset available to the utility. Over the next five years 36% of current employees are eligible to retire and more than 50% are eligible within 10 years. As employees complete their working careers and retire, it is imperative that a new generation is available to continue the high standards of service that define the utility. GUC has started an initiative to identify and train replacements in order to provide an orderly transition into the future. In addition, GUC has adopted an iLead program to identify and educate employees that are likely to be ready to move into supervisory and management positions within the next 10 years. In an effort to develop a pipeline of diverse, talented, and prepared employees eligible to earn a North Carolina Certification as a water treatment plant or waste water treatment plant operator, GUC has created an iGrow program which provides on-the-job training and North Carolina Rural Water Association (NCRWA) Certification classes for current employees.

Economic Development & Community Involvement

GUC maintains its commitment to supporting growth and economic development initiatives throughout the City of Greenville and Pitt County. To this end GUC has committed to being a sustaining member of a newly formed public-private partnership that will be transformative for our community.

GUC continues to be a leader in the community by participating in community sponsored events such as PirateFest, Freeboot Friday, and “Careers In Your Own Backyard” job fairs at our local Pitt County high schools. GUC also participates in the STEM Outreach Program which focuses on educating schools and colleges about the diverse set of science, technology, engineering, and math (STEM) careers that GUC offers. During the summer, GUC’s fan donation program provides 150 fans to the Pitt County Department of Social Services and Council on Aging to be distributed to customers in need. GUC is also a member of the Greenville-Pitt County Chamber of Commerce and actively participates in chamber related events.

SUMMARY

The FY 2019-20 balanced budget reflects the Board and GUC's strategic values, objectives, and the continuing mission of enhancing the quality of life for those we serve by safely providing reliable utility solutions at the lowest reasonable cost, with exceptional customer service in an environmentally responsible manner.

On behalf of the entire staff at GUC, I am pleased to present this proposed budget for FY 2019-20 to the Board of Commissioners for consideration.



Anthony C. Cannon
General Manager/CEO

ORDINANCE NO. _____
 CITY OF GREENVILLE, NORTH CAROLINA
 2019-20 GREENVILLE UTILITIES COMMISSION BUDGET ORDINANCE

THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES ORDAIN:

Section I. Estimated Net Revenues and Fund Balances It is estimated that the following non-tax revenues and fund balances will be available during the fiscal year beginning July 1, 2019 and ending June 30, 2020 to meet the subsequent expenditures, according to the following schedules:

<u>Revenues</u>		<u>Budget</u>
A. <u>Electric Fund</u>		
Rates & Charges	\$169,333,894	
Fees & Charges	1,923,510	
Miscellaneous	1,076,711	
Interest on Investments	1,150,000	
Bond Proceeds	105,688	
Transfer from Capital Projects	1,184,830	
Transfer from Rate Stabilization	<u>2,600,000</u>	
Total Electric Fund Revenue		\$177,374,633
B. <u>Water Fund</u>		
Rates & Charges	\$22,439,513	
Fees & Charges	458,228	
Miscellaneous	206,074	
Interest on Investments	140,000	
Bond Proceeds	153,125	
Transfer from Capital Projects	<u>382,781</u>	
Total Water Fund Revenue		\$23,779,721
C. <u>Sewer Fund</u>		
Rates & Charges	\$23,412,652	
Fees & Charges	428,159	
Miscellaneous	146,518	
Interest on Investments	200,000	
Bond Proceeds	101,000	
Transfer from Capital Projects	<u>1,271,903</u>	
Total Sewer Fund Revenue		\$25,560,232
D. <u>Gas Fund</u>		
Rates & Charges	\$33,168,600	
Fees & Charges	143,607	
Miscellaneous	145,130	
Interest on Investments	300,000	
Transfer from Capital Projects	<u>406,025</u>	
Total Gas Fund Revenue		<u>\$34,163,362</u>
Total Revenues		<u><u>\$260,877,948</u></u>

Section II. Expenditures The following amounts are hereby estimated for the Greenville Utilities Commission to be expended for managing, operating, improving, maintaining, and extending electric, water, sewer and gas utilities during the fiscal year beginning July 1, 2019 and ending on June 30, 2020, according to the following schedules:

<u>Expenditures</u>		<u>Budget</u>
Electric Fund	\$177,374,633	
Water Fund	23,779,721	
Sewer Fund	25,560,232	
Gas Fund	<u>34,163,362</u>	
Total Expenditures		<u><u>\$260,877,948</u></u>

Section III. Capital Improvements. The following Capital Improvements anticipated revenues and project appropriations as listed below in this section are hereby adopted in the fiscal year beginning July 1, 2019.

(a) It is estimated that the following non-tax revenues and long term debt proceeds will be available to fund capital project expenditures that will begin in the fiscal year beginning July 1, 2019.

<u>Capital Projects Revenues</u>	<u>Budget</u>
Electric Fund - Capital Projects Fund Balance	\$1,475,000
Electric Fund - Grant	125,000
Water Fund -Long Term Debt Proceeds	1,000,000
Sewer Fund - Long Term Debt Proceeds	4,800,000
Sewer Fund - Capital Projects Fund Balance	500,000
Gas Fund - Capital Projects Fund Balance	<u>2,750,000</u>
 Total Revenues	 <u><u>\$10,650,000</u></u>

(b) The following amounts are hereby appropriated for capital projects that will begin during the fiscal year beginning July 1, 2019

<u>Capital Projects Expenditures</u>	<u>Budget</u>
Battery Storage Pilot Project 1MW	\$1,600,000
Integrity Management Replacement Project	1,750,000
Allen Road Widening (NCDOT U-5875)	1,000,000
Water Main Rehabilitation Program Phase 2	1,000,000
Green Mill Run Tributary - 18-21 inch section	1,800,000
WWTP Headworks Improvements	2,500,000
Duplex Pump Station Improvements	500,000
Harris Mill Run Outfall	500,000
 Total Capital Projects Expenditures	 <u><u>\$10,650,000</u></u>

Section IV: Amendments.

(a) Pursuant to General Statutes 159-15, this budget may be amended by submission of proposed changes to the City Council.

(b) Notwithstanding Subsection (a) above, the General Manager/CEO of Greenville Utilities Commission is authorized to transfer funds from one appropriation to another in an amount not to exceed \$100,000. Any such transfers shall be reported to the Greenville Utilities Commission and the City Council at their next regular meeting and shall be entered in the minutes.

(c) In case of emergency which threatens the lives, health, or safety of the public, the General Manager/CEO may authorize expenditures in an amount necessary to meet the emergency so long as such amount does not exceed the amount in contingency accounts and the expenditure is reported to the Greenville Utilities Commission as soon as possible, and appropriate budget amendments are submitted to the City Council, if necessary, at its next regular meeting.

(d) Capital Projects listed in section III may be amended on an individual project basis.

Section V: Appropriation. The capital project revenue and expenditure authorizations shall extend from year to year until each project is completed.

Section VI: Distribution. Copies of this ordinance shall be furnished to the General Manager/CEO and the Chief Financial Officer of the Greenville Utilities Commission, and the Director of Financial Services of the City of Greenville to be kept on file by them for their direction in the disbursement of funds.

Adopted this the 13th day of June, 2019.

Attest:

P. J. Connelly, Mayor

Carol L. Barwick, City Clerk

ALL FUNDS

	2017-2018		2018-2019		2018-2019		2019-2020		2019-2020
	Actual		Budget		Projected		Plan		Budget
REVENUE:									
Rates & Charges	\$ 251,150,535	\$	247,711,476	\$	251,720,114	\$	251,997,999	\$	248,354,659
Fees & Charges	3,019,169		2,762,497		3,426,743		2,815,946		2,580,890
U. G. & Temp. Ser. Chgs.	399,743		237,251		384,100		247,183		372,614
Miscellaneous	3,705,354		1,874,434		2,482,689		1,796,003		1,574,433
Interest on Investments	879,562		475,000		1,687,723		475,000		1,790,000
FEMA/Insurance Reimbursement	80,690		-		-		-		-
Contributed Capital	14,295		-		-		-		-
Bond Proceeds	-		-		689,638		-		359,813
Installment Purchases	-		-		-		-		-
Transfer from Cap Projects	170,915		-		500,000		835,162		3,245,539
Transfer from Rate Stabilization	-		250,000		-		2,600,000		2,600,000
Appropriated Fund Balance	-		-		1,750,000		-		-
	\$ 259,420,263	\$	253,310,658	\$	262,641,007	\$	260,767,293	\$	260,877,948

EXPENDITURES:

Operations	\$ 61,504,643	\$	67,870,789	\$	67,651,335	\$	67,732,502	\$	69,883,841
Purchased Power	127,069,600		126,008,698		130,192,420		130,409,287		129,385,800
Purchased Gas	22,587,629		21,753,700		20,209,500		21,869,300		19,055,300
Capital Outlay	11,409,906		10,785,611		9,770,895		10,538,127		11,408,801
Debt Service	14,306,973		14,025,045		16,676,634		14,907,091		12,338,160
City Turnover - General	5,853,236		5,908,642		5,908,642		5,923,391		5,769,888
Street Light Reimbursement	747,547		822,654		861,006		847,334		869,481
Transfer to OPEB Trust	500,000		500,000		500,000		500,000		500,000
Transfer to Rate Stabilization	4,350,000		-		700,000		-		250,000
Transfer to Capital Projects	10,060,000		4,550,000		8,350,000		6,700,000		8,250,000
Transfer to Designated Reserve	-		-		-		-		-
Operating Contingencies	-		1,085,519		1,820,575		1,340,261		3,166,677
	\$ 258,389,534	\$	253,310,658	\$	262,641,007	\$	260,767,293	\$	260,877,948

ELECTRIC FUND

	2017-2018		2018-2019		2018-2019		2019-2020		2019-2020
	Actual		Budget		Projected		Plan		Budget
REVENUE:									
Rates & Charges	\$ 173,216,856	\$	168,192,401	\$	171,797,873	\$	169,742,465	\$	169,333,894
Fees & Charges	1,743,183		1,858,468		2,293,615		1,893,837		1,565,396
U. G. & Temp. Ser. Chgs.	384,743		222,751		369,600		232,683		358,114
Miscellaneous	2,879,515		1,292,496		1,669,275		1,203,700		1,076,711
Interest on Investments	538,907		325,000		1,080,835		325,000		1,150,000
FEMA/Insurance Reimbursement	60,137		-		-		-		-
Bond Proceeds	-		-		384,172		-		105,688
Installment Purchases	-		-		-		-		-
Transfer from Cap Projects	-		-		500,000		378,435		1,184,830
Transfer from Rate Stabilization	-		250,000		-		2,600,000		2,600,000
Appropriated Fund Balance	-		-		-		-		-
	\$ 178,823,341	\$	172,141,116	\$	178,095,370	\$	176,376,120	\$	177,374,633
EXPENDITURES:									
Operations	\$ 26,421,347	\$	29,133,393	\$	28,994,248	\$	28,932,129	\$	30,083,472
Purchased Power	127,069,600		126,008,698		130,192,420		130,409,287		129,385,800
Capital Outlay	7,226,369		7,932,467		6,520,872		7,371,623		7,060,927
Debt Service	3,089,613		3,382,942		3,872,163		3,959,861		3,440,789
City Turnover - General	4,254,580		4,184,591		4,184,591		4,155,600		4,055,000
Street Light Reimbursement	747,547		822,654		861,006		847,334		869,481
Transfer to OPEB Trust	300,000		300,000		300,000		300,000		300,000
Transfer to Rate Stabilization	4,100,000		-		-		-		-
Transfer to Capital Projects	4,730,000		-		2,500,000		-		1,000,000
Transfer to Designated Reserve	-		-		-		-		-
Operating Contingencies	-		376,371		670,070		400,286		1,179,164
	\$ 177,939,056	\$	172,141,116	\$	178,095,370	\$	176,376,120	\$	177,374,633

WATER FUND

	2017-2018	2018-2019	2018-2019	2019-2020	2019-2020
	Actual	Budget	Projected	Plan	Budget
REVENUE:					
Rates & Charges	\$ 19,380,229	\$ 20,504,829	\$ 20,746,896	\$ 22,061,548	\$ 22,439,513
Fees & Charges	567,827	387,500	453,025	395,250	443,728
U. G. & Temp. Ser. Chgs.	15,000	14,500	14,500	14,500	14,500
Miscellaneous	315,030	262,555	313,703	267,807	206,074
Interest on Investments	97,521	55,000	137,695	55,000	140,000
FEMA/Insurance Reimbursement	-	-	-	-	-
Bond Proceeds	-	-	116,372	-	153,125
Installment Purchases	-	-	-	-	-
Transfer from Cap Projects	-	-	-	227,967	382,781
Transfer from Rate Stabilization	-	-	-	-	-
Appropriated Fund Balance	-	-	1,750,000	-	-
	\$ 20,375,607	\$ 21,224,384	\$ 23,532,191	\$ 23,022,072	\$ 23,779,721
EXPENDITURES:					
Operations	\$ 12,778,871	\$ 14,181,011	\$ 14,314,399	\$ 14,296,447	\$ 14,496,346
Capital Outlay	1,843,348	566,231	773,229	844,261	1,216,846
Debt Service	3,448,214	3,225,573	5,159,839	3,680,742	1,972,757
Transfer to OPEB Trust	100,000	100,000	100,000	100,000	100,000
Transfer to Rate Stabilization	-	-	-	-	-
Transfer to Capital Projects	1,735,000	2,950,000	2,850,000	3,850,000	5,150,000
Transfer to Designated Reserve	-	-	-	-	-
Operating Contingencies	-	201,569	334,724	250,622	843,772
	\$ 19,905,433	\$ 21,224,384	\$ 23,532,191	\$ 23,022,072	\$ 23,779,721

SEWER FUND

	2017-2018	2018-2019	2018-2019	2019-2020	2019-2020
	Actual	Budget	Projected	Plan	Budget
REVENUE:					
Rates & Charges	\$ 22,439,848	\$ 23,006,546	\$ 23,288,787	\$ 23,753,986	\$ 23,412,652
Fees & Charges	549,067	363,604	511,627	370,876	428,159
U. G. & Temp. Ser. Chgs.	-	-	-	-	-
Miscellaneous	248,817	168,411	337,956	171,778	146,518
Interest on Investments	97,270	35,000	183,013	35,000	200,000
FEMA/Insurance Reimbursement	20,553	-	-	-	-
Contributed Capital	14,295	-	-	-	-
Bond Proceeds	-	-	96,422	-	101,000
Installment Purchases	-	-	-	-	-
Transfer from Cap Projects	170,915	-	-	128,886	1,271,903
Transfer from Rate Stabilization	-	-	-	-	-
Appropriated Fund Balance	-	-	-	-	-
	\$ 23,540,765	\$ 23,573,561	\$ 24,417,805	\$ 24,460,526	\$ 25,560,232
EXPENDITURES:					
Operations	\$ 12,758,671	\$ 14,283,007	\$ 14,027,970	\$ 14,318,778	\$ 14,590,050
Capital Outlay	1,373,786	1,115,631	1,027,525	862,651	2,180,346
Debt Service	6,394,613	6,095,606	6,227,849	5,858,225	5,680,853
Transfer to OPEB Trust	100,000	100,000	100,000	100,000	100,000
Transfer to Rate Stabilization	-	-	-	-	-
Transfer to Capital Projects	2,645,000	1,600,000	2,500,000	2,850,000	2,100,000
Transfer to Designated Reserve	-	-	-	-	-
Operating Contingencies	-	379,317	534,461	470,872	908,983
	\$ 23,272,070	\$ 23,573,561	\$ 24,417,805	\$ 24,460,526	\$ 25,560,232

GAS FUND

	2017-2018	2018-2019	2018-2019	2019-2020	2019-2020
	Actual	Budget	Projected	Plan	Budget
REVENUE:					
Rates & Charges	\$ 36,113,602	\$ 36,007,700	\$ 35,886,558	\$ 36,440,000	\$ 33,168,600
Fees & Charges	159,092	152,925	168,476	155,983	143,607
U. G. & Temp. Ser. Chgs.	-	-	-	-	-
Miscellaneous	261,992	150,972	161,755	152,718	145,130
Interest on Investments	145,864	60,000	286,180	60,000	300,000
FEMA/Insurance Reimbursement	-	-	-	-	-
Bond Proceeds	-	-	92,672	-	-
Installment Purchases	-	-	-	-	-
Transfer from Cap Projects	-	-	-	99,874	406,025
Transfer from Rate Stabilization	-	-	-	-	-
Appropriated Fund Balance	-	-	-	-	-
	\$ 36,680,550	\$ 36,371,597	\$ 36,595,641	\$ 36,908,575	\$ 34,163,362
EXPENDITURES:					
Operations	\$ 9,545,754	\$ 10,273,378	\$ 10,314,718	\$ 10,185,148	\$ 10,713,973
Purchased Gas	22,587,629	21,753,700	20,209,500	21,869,300	19,055,300
Capital Outlay	966,403	1,171,282	1,449,269	1,459,592	950,682
Debt Service	1,374,533	1,320,924	1,416,783	1,408,263	1,243,761
City Turnover - General	1,598,656	1,724,051	1,724,051	1,767,791	1,714,888
Transfer to OPEB Trust	-	-	-	-	-
Transfer to Rate Stabilization	250,000	-	700,000	-	250,000
Transfer to Capital Projects	950,000	-	500,000	-	-
Transfer to Designated Reserve	-	-	-	-	-
Operating Contingencies	-	128,262	281,320	218,481	234,758
	\$ 37,272,975	\$ 36,371,597	\$ 36,595,641	\$ 36,908,575	\$ 34,163,362

**GREENVILLE UTILITIES COMMISSION
BUDGET BY DEPARTMENT
2019-2020**

Department	Electric	Water	Sewer	Gas	Total
Governing Body and Administration	1,271,451	767,479	767,479	782,479	3,588,888
Finance	5,886,864	1,926,277	1,881,381	1,889,478	11,584,000
Human Resources	1,514,679	812,758	775,819	591,096	3,694,352
Information Technology	4,190,323	1,155,665	1,155,665	1,332,860	7,834,513
Customer Relations	3,365,310	200,959	200,959	401,917	4,169,145
Electric Department	18,944,779	-	-	-	18,944,779
Shared Resources	48,250	30,750	30,750	33,250	143,000
Meter	1,747,960	457,633	457,633	457,633	3,120,859
Water Department	-	10,186,884	-	-	10,186,884
Sewer Department	-	-	11,325,923	-	11,325,923
Gas Department	-	-	-	6,001,155	6,001,155
Utility Locating Service	174,783	174,787	174,787	174,787	699,144
Ancillary	140,230,234	8,066,529	8,789,836	22,498,707	179,585,306
Grand Total	177,374,633	23,779,721	25,560,232	34,163,362	260,877,948

2018-2019

Department	Electric	Water	Sewer	Gas	Total
Governing Body and Administration	840,186	836,217	836,217	851,217	3,363,837
Finance	5,414,598	1,736,914	1,699,714	1,670,070	10,521,296
Human Resources	1,418,768	761,293	726,690	553,669	3,460,420
Information Technology	4,193,053	1,030,495	1,035,554	1,225,470	7,484,572
Customer Relations	3,379,078	216,508	221,508	423,015	4,240,109
Electric Department	19,783,058	-	-	-	19,783,058
Shared Resources	45,000	27,500	27,500	30,000	130,000
Meter	1,814,031	453,833	453,833	453,833	3,175,530
Water Department	-	9,506,384	-	-	9,506,384
Sewer Department	-	-	10,219,524	-	10,219,524
Gas Department	-	-	-	6,059,288	6,059,288
Utility Locating Service	178,088	178,098	178,098	178,098	712,382
Ancillary	135,075,256	6,477,142	8,174,923	24,926,937	174,654,258
Grand Total	172,141,116	21,224,384	23,573,561	36,371,597	253,310,658

**GREENVILLE UTILITIES COMMISSION
EXPENDITURES BY DEPARTMENT**

Department	2017-2018 Actual	2018-2019 Budget	2018-2019 Projected	2019-2020 Plan	2019-2020 Budget
Governing Body and Administration	2,883,100	3,363,837	3,771,572	3,384,306	3,588,888
Finance	9,757,760	10,521,296	10,962,991	10,050,715	11,584,000
Human Resources	3,089,564	3,460,420	3,620,659	3,583,477	3,694,352
Information Technology	5,909,703	7,484,572	6,734,066	7,618,280	7,834,513
Customer Relations	3,895,375	4,240,109	3,991,084	4,222,597	4,169,145
Electric Department	18,874,619	19,783,058	18,218,519	19,163,164	18,944,779
Shared Resources	158,807	130,000	130,000	130,000	143,000
Meter	2,714,807	3,175,530	2,993,654	3,192,649	3,120,859
Water Department	9,899,129	9,506,384	9,868,495	9,946,909	10,186,884
Sewer Department	9,445,565	10,219,524	9,912,264	10,048,890	11,325,923
Gas Department	5,615,998	6,059,288	6,454,057	6,249,534	6,001,155
Utility Locating Service	670,122	712,382	764,869	680,108	699,144
Ancillary	185,474,984	174,654,258	185,218,777	182,496,664	179,585,306
Total	258,389,533	253,310,658	262,641,007	260,767,293	260,877,948



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Contract award for construction of the Sycamore Hill Gateway Plaza

Explanation: **Abstract:** Rhodeside and Harwell Inc. (RHI), in conjunction with the Recreation and Parks Department, conducted a formal bid process and determined that Berry Building Group, Inc. was the lowest responsible and responsive bidder for the Sycamore Hill Gateway Plaza project. The Recreation and Parks Department is requesting that the construction contract for this project be awarded to Berry Building Group, Inc. in the total amount of \$1,920,000.

Explanation: On November 11, 2016, City Council authorized the City Manager to negotiate and enter into a contract with RHI for construction and bid documents related to the Sycamore Hill Gateway Plaza project.

In 2017, RHI facilitated meetings with City staff and stakeholders to complete initial project design concepts. A public open house was held on August 11, 2017 to present Gateway Plaza design alternatives and seek input from the community. Based on feedback gathered, the majority of stakeholders selected "Concept #1 - Walls" as the preferred design option. The preferred design concept was presented to City Council for approval on September 14, 2017.

Upon approval of the design concept in September, 2017, RHI completed the construction documents and specifications for the project in October, 2018, and issued an advertisement for bids. On April 11, 2019, bids were publicly opened, at which time Recreation and Parks received one (1) bid. The master bid tabulation is attached. Since this was the third time the project has been let for bid, the City was authorized to accept the bid based on North Carolina Bid Laws.

After the City's evaluation of the bid proposal, Denisha Harris (Financial Services Manager) certified Berry Building Group, Inc. as the lowest responsible, responsive bidder. Since the bid amount was greater than the amount available for this project, negotiations were undertaken to reduce costs. The City completed bid negotiations

with Berry Building Group, Inc. on May 14, 2019, and accepted their bid in the amount of \$1,920,000.

Fiscal Note:

On December 14, 2017, City Council approved a Capital Reserve Fund Designations Ordinance (Ordinance No. 17-064) to allocate \$2,000,000 for the construction of the Sycamore Hill Gateway Plaza project. The source of this allocation was from the General Fund. Of the \$2,000,000 that was budgeted, there is currently a balance of approximately \$1,980,000 remaining to fund this contract for construction.

Recommendation:

Approve the contract award to Berry Building Group, Inc. for construction of the Sycamore Hill Gateway Plaza project for a total amount of \$1,920,000.

ATTACHMENTS:

- ▣ **Contract**
- ▣ **Sycamore Hill Gateway Plaza Bid Tab, 04.11.2019**

Standard Form of Agreement Between Owner and Contractor

*where the basis of payment is a
STIPULATED SUM*

The name of this Agreement is:

Agreement to provide construction services for
Sycamore Hill Gateway Plaza

AGREEMENT

made as of the _____ day of May in the year of
two thousand-nineteen (2019)

BETWEEN the Owner, City of Greenville:

City of Greenville
Recreation and Parks
P.O. Box 7207
Greenville, NC 278385-7207

and the Contractor:

Berry Building Group
1916 Tybee Ct
Winterville, NC 28590

The Contractor is a licensed general contractor and existing under the laws of the
State of North Carolina.

The Project is:

Sycamore Hill Gateway Plaza
100 E. First Street
Greenville, NC 27858

The Architect / Engineer is:

Rhodeside & Harwell
510 King Street Suite 300
Alexandria, VA 22314

The Owner and Contractor agree as set forth below.

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; these 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 Modifications, appears in Article 9.

ARTICLE 2
THE WORK OF THIS CONTRACT

The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

- 2.1 The Contractor is the single prime contractor.
- 2.2 This is a multiprime contract project, and the Contractor is:
 - 2.2.1 the general contractor.
 - 2.2.2 the plumbing contractor.
 - 2.2.3 the electrical contractor.
 - 2.2.4 the HVAC contractor.
 - 2.2.5 the contractor to perform the Work.

ARTICLE 3
DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

~~3.1 The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.~~

- The date of commencement shall be:
- the date of this Agreement.
 - fixed in a notice to proceed.
 -

Unless the date of commencement is established by a notice to proceed issued by the Owner, the Contractor shall notify the Owner in writing not less than five days before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

3.2 The Contractor shall achieve Substantial Completion of the entire Work not later than 365 days after the date of commencement referred to in paragraph 3.1.

Subject to adjustments of this Contract Time as provided in the Contract Documents.

**ARTICLE 4
CONTRACT SUM**

4.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of **One Million, Nine Hundred Twenty Thousand Dollars (\$1,920,000)**, subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner: **Attachment A.**

4.3 Unit prices, if any, are as follows:

Item Number	Description	Unit Measure	Unit Price (\$)
1	Unit Pavers	SF	\$20 standard ; \$330 decorative
2	Reinforced Concrete	CY	\$975.00

**ARTICLE 5
PROGRESS PAYMENTS**

5.1 Based upon Applications for Payment submitted to the ~~Architect~~ **OWNER** 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.

5.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows: **15th day of the month.**

5.3 Provided an Application for Payment is received by the ~~Architect~~ **OWNER** not later than the 20th day of a month, the Owner shall make payment to the Contractor not later than the 15th day of the following month. If an Application for Payment is received by the ~~Architect~~ **OWNER** after the application date fixed above, payment shall be made by the Owner not later than 45 days after the ~~Architect~~ **OWNER** receives the Application for Payment.

5.4 Each Application for Payment shall be based upon the 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 and be prepared in such form and supported by such data to substantiate its accuracy as the ~~Architect~~ **OWNER** may require. This Schedule, unless objected to by the ~~Architect~~ **OWNER**, shall be used as a basis for reviewing the Contractor's Applications for Payment.

5.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

5.6 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

5.6.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of zero percent (0 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in the dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions even though the Contract Sum has not yet been adjusted by Change Order;

5.6.2 Add 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), less retainage of twenty percent (10 %);

5.6.3 Subtract the aggregate of previous payments made by the Owner; and

5.6.4 Subtract amounts, if any, for which the ~~Architect~~ **OWNER** has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.

5.7 The progress payment amount determined in accordance with Paragraph 5.6 shall be further modified under the following circumstances:

5.7.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred

percent (100%) of the Contract Sum, less such amounts as the Architect OWNER shall determine for incomplete Work and unsettled claims; and

5.7.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.

5.8 Reduction or limitation of retainage, if any, shall be as follows: not applicable

ARTICLE 6 FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor within 25 days after ~~when (1)~~ the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming Work as provided in Subparagraph 12.2.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and ~~(2) a final Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:~~

ARTICLE 7 MISCELLANEOUS PROVISIONS

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 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.~~

N/A

7.3 Other provisions: (Check one box.)

Subparagraph 7.3.1, titled "Liquidated Damages," shall apply to this Agreement. The amount of liquidated damages shall be Five Hundred dollars (\$500) per day.

Subparagraph 7.3.1, titled "Liquidated Damages," shall not apply to this Agreement.

7.3.1 Liquidated Damages. The parties recognize that Owner will suffer financial loss if the Work is not completed within the Contract Time (including adjustments and extensions, if any). They also recognize the delays, expense, and difficulty to both parties involved in proving or contesting the amounts of those losses. Instead of requiring proof of those amounts, it is agreed that Contractor shall be liable for and shall pay Owner the amount specified above in paragraph 7.3 per day as liquidated damages, and not as a penalty, for each day after the Contract Time until Substantial Completion. The amounts stated as liquidated damages are agreed to be reasonable estimates of Owner's losses and expenses for delays, including inspections, architectural and engineering services, and administrative costs. If any part of those delays is caused by Owner, liquidated damages shall not be charged for the portion of the delay time that was caused by Owner but shall be charged for the portion not so caused. Owner may collect liquidated damages by retaining moneys otherwise due Contractor in the amount of such damages, and by other legal means. Nothing in this Subparagraph 7.3.1 shall reduce Owner's rights under Article 14 of the General Conditions or other provisions of the Contract Documents. In its discretion, Owner may waive some or all liquidated damages against the Contractor. Such a waiver is valid only if done by a signed writing that refers specifically to this Subparagraph 7.3.1 and specifically mentions "liquidated damages." Such a waiver shall not constitute an extension of the Contract Time.

7.3.2 **Performance and Payment bonds** The Contractor is is not required to furnish performance and payment bonds.

7.3.3 **Additional Provisions:** E-Verify Compliance : The Designer shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Designer furnishes services, programs or goods to the City utilizing a subcontractor, the Designer shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Designer represents that the Designer and its subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

**ARTICLE 8
TERMINATION OR SUSPENSION**

- 8.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.
- 8.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

**ARTICLE 9
ENUMERATION OF CONTRACT DOCUMENTS**

- 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:
 - 9.1.1 The Agreement is this executed Standard Form of Agreement Between Owner and Contractor.
 - 9.1.2 The General Conditions are the General Conditions of the Contract for Construction.
 - 9.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual, dated and are as follows:

Date of Project Manual: October 2018

Document	Title	Pages
	CITY OF GREENVILLE GENERALCONDITIONS TO STANDARD AGREEMENT BETWEEN THE OWNER AND CONTRACTOR	15
	City of Greenville North Carolina Contract Change Order	1
	Claim Form for Additional Time on the Basis of Adverse Weather Conditions	2

9.1.4 The Specifications are those contained in the Project Manual dated as in Subparagraph 9.1.3, and are as follows:

<u>DIVISION 01</u>	<u>TITLE</u>	<u>AUTHOR</u>
011000	Summary	RHI
012500	Substitution Procedures	RHI
012600	Contract Modification Procedures	RHI
012900	Payment Procedures	RHI
013100	Project Management and Coordination	RHI
013200	Construction Progress Documentation	RHI
013233	Photographic Documentation	RHI
013300	Submittal Procedures	RHI
014000	Quality Requirements	RHI
014200	References	RHI
015639	Temporary Tree and Plant Protection	TEG
016000	Product Requirements	RHI
017300	Execution	RHI
017700	Closeout Procedures	RHI

<u>DIVISION 01</u>	<u>TITLE</u>	<u>AUTHOR</u>
017823	Operation and Maintenance Data	RHI
017839	Project Record Documents	RHI

<u>DIVISION 02</u>	<u>TITLE</u>	<u>AUTHOR</u>
022000	Temporary Tree and Plant Protection	TEG

<u>DIVISION 03</u>	<u>TITLE</u>	<u>AUTHOR</u>
033000	Cast in Plan Concrete	Lynch Mykins
034500	Architectural Precast Concrete	P+W

<u>DIVISION 05</u>	<u>TITLE</u>	<u>AUTHOR</u>
055000	Metal Fabrications	P+W
051200	Structural Steel Framing	Lynch Mykins
055213	Pipe and Tube Railings	RHI

9.1.5 The Drawings are as follows, and are dated unless a different date is shown below:

Refer to Exhibit A – Index of Drawings

9.1.6 The Addenda, if any, are as follows:

<u>Number</u>	<u>Date</u>	<u>Pages</u>
Addendum #1	March 22, 2019	3

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

9.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies of which one is to be delivered to the Contractor, one to the Architect for us in the administration of the Contract, and the remainder to the Owner.

Exhibit A – Index of Drawings

SHEET INDEX

C-001	COVER SHEET, KEY MAP & SHEET INDEX	S-001	GENERAL NOTES
C-002	LEGEND, KEY NOTES & GENERAL NOTES	S-101	FOUNDATION PLAN
		S-201	ELEVATIONS
C-001	COMPOSITE PLAN	S-301	STRUCTURAL WALL / PRECAST WALL DETAILS
C-002	CURRENT CONDITIONS & DEMOLITION PLAN	S-501	TYPICAL DETAILS
C-003	TREE PRESERVATION PLAN, DETAILS & NOTES	S-502	TYPICAL DETAILS
C-101	SITE PLAN		
C-102	SITE PLAN: VEGETATION	E-101	OVERALL LIGHTING LAYOUT
C-201	GRADING, DRAINAGE, EROSION & SEDIMENT CONTROL PLAN	E-102	GATEWAY PLAZA SITE LIGHTING PLAN
C-301	UTILITY PLAN: WATER SERVICE	LT-100	IN-GRADE LIGHTING LAYOUT
C-401	SITE DETAILS: UTILITY AND VEHICULAR	LT-101	ARCHITECTURAL LIGHTING LAYOUT
C-402	SITE DETAILS: EROSION & SEDIMENT CONTROL AND STORMWATER	LT-102	MAINTAINED ILLUMINANCE AT GRADE
L-100	OVERALL SITE FEATURES REFERENCE PLAN		
L-101	GATEWAY PLAZA MATERIALS PLAN		
L-102	SYCAMORE GROVE & GATEWAY PLAZA EXTENSION MATERIALS PLAN		
L-201	GATEWAY PLAZA PAVING LAYOUT		
L-202	GATEWAY PLAZA WALL LAYOUT		
L-203	GATEWAY PLAZA INTERPRETIVE PAING & BENCH LAYOUT		
L-204	SYCAMORE GROVE & GATEWAY PLAZA EXTENSION LAYOUT PLAN		
L-301	SITE SECTIONS		
L-302	PAVING DETAILS		
L-303	PAVING DETAILS		
L-304	STAIRS		
L-306	SITE FURNISHINGS		
L-401	PLANTING PLAN		
L-402	PLANTING SCHEDULE & DETAILS		
L-403	TREE PRESERVATION DETAILS		
A-000	GENERAL NOTES, SYMBOLS & ABBREVIATIONS		
A-001	CODE COMPLIANCE DATA – PART 01		
A-002	CODE COMPLIANCE DATA – PART 02		
A-100	ARCHITECTURAL SITE PLAN		
A-110	INTERPRETIVE CONTENT DIAGRAM		
A-200	EXTERIOR ELEVATIONS		
A-201	WALL ELEVATIONS		
A-202	WALL ELEVATIONS		
A-203	GATEWAY TOWER		
A-204	WALL ASSEMBLIES		
A-205	ARCHITECTURAL DETAILS		
A-300	ILLUSTRATIVE AXON		
A-501	INTERPRETIVE SITE PLAN		
A-502	INTERPRETIVE SYSTEM		
A-503	COMMUNITY GALLERY INTERPRETIVE PANEL ELEVATIONS		
A-504	PATH GALLERY INTERPRETIVE PANEL ELEVATIONS		
A-505	REMEMBRANCE GALLERY INTERPRETIVE PANEL ELEVATIONS		
A-506	REMEMBRANCE DONOR WALL ELEVATION		
A-507	INTERPRETIVE PAVERS		

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed in duplicate originals as of the day and year first above written.

CITY OF GREENVILLE:

BERRY BUILDING GROUP

BY: _____
Ann E. Wall
City Manager

BY: _____

Printed Name: _____

TITLE: _____

APPROVED AS TO FORM:

BY: _____
Emanuel D. McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Byron Hayes, Director of Financial Services

Account Number SYCAMORE-CONSTR

GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

for the following PROJECT:

(Name and location or address):

Sycamore Hill Gateway Plaza
100 East 1st Street, Greenville, NC 27858

THE OWNER:

(Name and address):

City of Greenville
Recreation & Parks
PO Box 7207
Greenville, NC 27835

THE GENERAL CONTRACTOR:

(Name and address):

Berry Building Group
1916 Tybee Ct
Winterville, NC 28590

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 OWNER
- 3 CONTRACTOR
- 4 ADMINISTRATION OF THE CONTRACT
- 5 SUBCONTRACTORS
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
- 7 CHANGES IN THE WORK
- 8 TIME
- 9 PAYMENTS AND COMPLETION
- 10 PROTECTION OF PERSONS AND PROPERTY
- 11 INSURANCE AND BONDS
- 12 UNCOVERING AND CORRECTION OF WORK
- 13 MISCELLANEOUS PROVISIONS
- 14 TERMINATION OR SUSPENSION OF THE CONTRACT
- 15 MISCELLANEOUS PROVISIONS

INDEX

(Numbers and Topics in Bold are Section Headings)

Acceptance of Nonconforming Work

9.6.6, 9.9.3, **12.3**

Acceptance of Work

9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, 12.3

Access to Work

3.16, 6.2.1, 12.1

Accident Prevention

4.2.3, 10

Acts and Omissions

3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 4.3.8, 4.4.1, 8.3.1, 9.5.1, 10.2.5, 13.4.2, 13.7, 14.1

Addenda

1.1.1, 3.11

Additional Costs, Claims for

4.3.4, 4.3.5, 4.3.6, 6.1.1, 10.3

Additional Inspections and Testing

9.8.3, 12.2.1, 13.5

Additional Time, Claims for

4.3.4, 4.3.7, 8.3.2

ADMINISTRATION OF THE CONTRACT

3.1.3, 4, 9.4, 9.5

Advertisement or Invitation to Bid

1.1.1

Aesthetic Effect

4.2.13, 4.5.1

Allowances

3.8

All-risk Insurance

11.4.1.1

Applications for Payment

4.2.5, 7.3.8, 9.2, **9.3**, 9.4, 9.5.1, 9.6.3, 9.7.1, 9.8.5, 9.10, 11.1.3, 14.2.4, 14.4.3

Approvals

2.4, 3.1.3, 3.5, 3.10.2, 3.12, 4.2.7, 9.3.2, 13.4.2, 13.5

Arbitration

4.3.3, 4.4, 4.5.1, 4.5.2, **4.6**, 8.3.1, 9.7.1, 11.4.9, 11.4.10

Architect

4.1

Architect, Definition of

4.1.1

Architect, Extent of Authority

2.4, 3.12.7, 4.2, 4.3.6, 4.4, 5.2, 6.3, 7.1.2, 7.3.6, 7.4, 9.2, 9.3.1, 9.4, 9.5, 9.8.3, 9.10.1, 9.10.3, 12.1, 12.2.1, 13.5.1, 13.5.2, 14.2.2, 14.2.4

Architect, Limitations of Authority and Responsibility

2.1.1, 3.3.3, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, **4.2.3**, 4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 4.4, 5.2.1, 7.4, 9.4.2, 9.6.4, 9.6.6

Architect's Additional Services and Expenses

2.4, 11.4.1.1, 12.2.1, 13.5.2, 13.5.3, 14.2.4

Architect's Administration of the Contract

3.1.3, **4.2**, 4.3.4, 4.4, 9.4, 9.5

Architect's Approvals

2.4, 3.1.3, 3.5.1, 3.10.2, 4.2.7

Architect's Authority to Reject Work

3.5.1, 4.2.6, 12.1.2, 12.2.1

Architect's Copyright

1.6

Architect's Decisions

4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.3.4, 4.4.1, 4.4.5, 4.4.6, 4.5, 6.3, 7.3.6, 7.3.8, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.5.2, 14.2.2, 14.2.4

Architect's Inspections

4.2.2, 4.2.9, 4.3.4, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.5

Architect's Instructions

3.2.3, 3.3.1, 4.2.6, 4.2.7, 4.2.8, 7.4.1, 12.1, 13.5.2

Architect's Interpretations

4.2.11, 4.2.12, 4.3.6

Architect's Project Representative

4.2.10

Architect's Relationship with Contractor

1.1.2, 1.6, 3.1.3, 3.2.1, 3.2.2, 3.2.3, 3.3.1, 3.4.2, 3.5.1, 3.7.3, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.2, 4.1.3, 4.2, 4.3.4, 4.4.1, 4.4.7, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 11.4.7, 12, 13.4.2, 13.5

Architect's Relationship with Subcontractors

1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.4.7

Architect's Representations

9.4.2, 9.5.1, 9.10.1

Architect's Site Visits

4.2.2, 4.2.5, 4.2.9, 4.3.4, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.5

Asbestos

10.3.1

Attorneys' Fees

3.18.1, 9.10.2, 10.3.3

Award of Separate Contracts

6.1.1, 6.1.2

Award of Subcontracts and Other Contracts for Portions of the Work

5.2

Basic Definitions

1.1

Bidding Requirements

1.1.1, 1.1.7, 5.2.1, 11.5.1

Boiler and Machinery Insurance

11.4.2

Bonds, Lien

9.10.2

Bonds, Performance, and Payment

7.3.6.4, 9.6.7, 9.10.3, 11.4.9, 11.5

Building Permit

3.7.1

Capitalization

1.3

Certificate of Substantial Completion

9.8.3, 9.8.4, 9.8.5

Certificates for Payment

4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7.1, 9.10.1, 9.10.3, 13.7, 14.1.1.3, 14.2.4
 Certificates of Inspection, Testing or Approval
 13.5.4
 Certificates of Insurance
 9.10.2, 11.1.3
Change Orders
 1.1.1, 2.4.1, 3.4.2, 3.8.2.3, 3.11.1, 3.12.8, 4.2.8, 4.3.4, 4.3.9, 5.2.3, 7.1, 7.2, 7.3, 8.3.1, 9.3.1.1, 9.10.3, 11.4.1.2, 11.4.4, 11.4.9, 12.1.2
 Change Orders, Definition of
 7.2.1
CHANGES IN THE WORK
 3.11, 4.2.8, 7, 8.3.1, 9.3.1.1, 11.4.9
 Claim, Definition of
4.3.1
Claims and Disputes
 3.2.3, **4.3**, 4.4, 4.5, 4.6, 6.1.1, 6.3, 7.3.8, 9.3.3, 9.10.4, 10.3.3
Claims and Timely Assertion of Claims
4.6.5
Claims for Additional Cost
 3.2.3, 4.3.4, **4.3.5**, 4.3.6, 6.1.1, 7.3.8, 10.3.2
Claims for Additional Time
 3.2.3, 4.3.4, **4.3.7**, 6.1.1, 8.3.2, 10.3.2
Claims for Concealed or Unknown Conditions
4.3.4
 Claims for Damages
 3.2.3, 3.18, 4.3.10, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.1.1, 11.4.5, 11.4.7, 14.1.3, 14.2.4
 Claims Subject to Arbitration
 4.4.1, 4.5.1, 4.6.1
Cleaning Up
3.15, 6.3
Commencement of Statutory Limitation Period
13.7
 Commencement of the Work, Conditions Relating to
 2.2.1, 3.2.1, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 4.3.5, 5.2.1, 5.2.3, 6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.4.1, 11.4.6, 11.5.1
 Commencement of the Work, Definition of
 8.1.2
Communications Facilitating Contract Administration
 3.9.1, **4.2.4**
 Completion, Conditions Relating to
 1.6.1, 3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1, 9.10, 12.2, 13.7, 14.1.2
COMPLETION, PAYMENTS AND
9
 Completion, Substantial
 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 9.10.4.2, 12.2, 13.7
 Compliance with Laws
 1.6.1, 3.2.2, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 4.4.8, 4.6.4, 4.6.6, 9.6.4, 10.2.2, 11.1, 11.4, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14.1.1, 14.2.1.3
 Concealed or Unknown Conditions

4.3.4, 8.3.1, 10.3
 Conditions of the Contract
 1.1.1, 1.1.7, 6.1.1, 6.1.4
 Consent, Written
 1.6, 3.4.2, 3.12.8, 3.14.2, 4.1.2, 4.3.4, 4.6.4, 9.3.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 11.4.1, 13.2, 13.4.2
CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
 1.1.4, **6**
 Construction Change Directive, Definition of
 7.3.1
Construction Change Directives
 1.1.1, 3.12.8, 4.2.8, 4.3.9, 7.1, **7.3**, 9.3.1.1
 Construction Schedules, Contractor's
 1.4.1.2, 3.10, 3.12.1, 3.12.2, 4.3.7.2, 6.1.3
Contingent Assignment of Subcontracts
5.4, 14.2.2.2
Continuing Contract Performance
4.3.3
 Contract, Definition of
 1.1.2
CONTRACT, TERMINATION OR SUSPENSION OF THE
 5.4.1.1, 11.4.9, **14**
 Contract Administration
 3.1.3, 4, 9.4, 9.5
 Contract Award and Execution, Conditions Relating to
 3.7.1, 3.10, 5.2, 6.1, 11.1.3, 11.4.6, 11.5.1
Contract Documents, The
1.1, 1.2
 Contract Documents, Copies Furnished and Use of
 1.6, 2.2.5, 5.3
 Contract Documents, Definition of
 1.1.1
Contract Sum
 3.8, 4.3.4, 4.3.5, 4.4.5, 5.2.3, 7.2, 7.3, 7.4, **9.1**, 9.4.2, 9.5.1.4, 9.6.7, 9.7, 10.3.2, 11.4.1, 14.2.4, 14.3.2
 Contract Sum, Definition of
 9.1
 Contract Time
 4.3.4, 4.3.7, 4.4.5, 5.2.3, 7.2.1.3, 7.3, 7.4, 8.1.1, 8.2, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 14.3.2
 Contract Time, Definition of
 8.1.1
CONTRACTOR
3
 Contractor, Definition of
 3.1, **6.1.2**
Contractor's Construction Schedules
 1.4.1.2, **3.10**, 3.12.1, 3.12.2, 4.3.7.2, 6.1.3
 Contractor's Employees
 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3, 11.1.1, 11.4.7, 14.1, 14.2.1.1,
Contractor's Liability Insurance
11.1
 Contractor's Relationship with Separate Contractors and Owner's Forces

3.12.5, 3.14.2, 4.2.4, 6, 11.4.7, 12.1.2, 12.2.4
 Contractor's Relationship with Subcontractors
 1.2.2, 3.3.2, 3.18.1, 3.18.2, 5, 9.6.2, 9.6.7, 9.10.2,
 11.4.1.2, 11.4.7, 11.4.8
 Contractor's Relationship with the Architect
 1.1.2, 1.6, 3.1.3, 3.2.1, 3.2.2, 3.2.3, 3.3.1, 3.4.2, 3.5.1,
 3.7.3, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.2, 4.1.3, 4.2, 4.3.4,
 4.4.1, 4.4.7, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8,
 9.9, 10.2.6, 10.3, 11.3, 11.4.7, 12, 13.4.2, 13.5
 Contractor's Representations
 1.5.2, 3.5.1, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2
 Contractor's Responsibility for Those Performing the
 Work
 3.3.2, 3.18, 4.2.3, 4.3.8, 5.3.1, 6.1.3, 6.2, 6.3, 9.5.1, 10
 Contractor's Review of Contract Documents
 1.5.2, 3.2, 3.7.3
 Contractor's Right to Stop the Work
 9.7
 Contractor's Right to Terminate the Contract
 4.3.10, 14.1
 Contractor's Submittals
 3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.6, 9.2, 9.3, 9.8.2,
 9.8.3, 9.9.1, 9.10.2, 9.10.3, 11.1.3, 11.5.2
 Contractor's Superintendent
 3.9, 10.2.6
 Contractor's Supervision and Construction Procedures
 1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 4.3.3, 6.1.3, 6.2.4,
 7.1.3, 7.3.4, 7.3.6, 8.2, 10, 12, 14
 Contractual Liability Insurance
 11.1.1.8, 11.2, 11.3
 Coordination and Correlation
 1.2, 1.5.2, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1
 Copies Furnished of Drawings and Specifications
 1.6, 2.2.5, 3.11
 Copyrights
 1.6, 3.17
 Correction of Work
 2.3, 2.4, 3.7.4, 4.2.1, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2,
 12.2, 13.7.1.3
Correlation and Intent of the Contract Documents
1.2
 Cost, Definition of
 7.3.6
 Costs
 2.4, 3.2.3, 3.7.4, 3.8.2, 3.15.2, 4.3, 5.4.2, 6.1.1, 6.2.3,
 7.3.3.3, 7.3.6, 7.3.7, 7.3.8, 9.10.2, 10.3.2, 10.5, 11.3,
 11.4, 12.1, 12.2.1, 12.2.4, 13.5, 14
Cutting and Patching
6.2.5, 3.14
 Damage to Construction of Owner or Separate
 Contractors
 3.14.2, 6.2.4, 9.2.1.5, 10.2.1.2, 10.2.5, 10.6, 11.1, 11.4,
 12.2.4
 Damage to the Work
 3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.6, 11.4, 12.2.4

Damages, Claims for
 3.2.3, 3.18, 4.3.10, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3,
 11.1.1, 11.4.5, 11.4.7, 14.1.3, 14.2.4
 Damages for Delay
 6.1.1, 8.3.3, 9.5.1.6, 9.7, 10.3.2
 Date of Commencement of the Work, Definition of
 8.1.2
 Date of Substantial Completion, Definition of
 8.1.3
 Day, Definition of
 8.1.4
 Decisions of the Architect
 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.3.4, 4.4.1, 4.4.5,
 4.4.6, 4.5, 6.3, 7.3.6, 7.3.8, 8.1.3, 8.3.1, 9.2, 9.4,
 9.5.1, 9.8.4, 9.9.1, 13.5.2, 14.2.2, 14.2.4
Decisions to Withhold Certification
 9.4.1, **9.5**, 9.7, 14.1.1.3
 Defective or Nonconforming Work, Acceptance,
 Rejection and Correction of
 2.3, 2.4, 3.5.1, 4.2.6, 6.2.5, 9.5.1, 9.5.2, 9.6.6, 9.8.2,
 9.9.3, 9.10.4, 12.2.1, 13.7.1.3
 Defective Work, Definition of
 3.5.1
 Definitions
 1.1, 2.1.1, 3.1, 3.5.1, 3.12.1, 3.12.2, 3.12.3, 4.1.1,
 4.3.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 7.3.6, 8.1, 9.1, 9.8.1
Delays and Extensions of Time
 3.2.3, 4.3.1, 4.3.4, 4.3.7, 4.4.5, 5.2.3, 7.2.1, 7.3.1,
 7.4.1, **8.3**, 9.5.1, 9.7.1, 10.3.2, 10.6.1, 14.3.2
 Disputes
 4.1.4, 4.3, 4.4, 4.5, 4.6, 6.3, 7.3.8
Documents and Samples at the Site
3.11
 Drawings, Definition of
 1.1.5
 Drawings and Specifications, Use and Ownership of
 1.1.1, 1.3, 2.2.5, 3.11, 5.3
 Effective Date of Insurance
 8.2.2, 11.1.2
Emergencies
 4.3.5, **10.6**, 14.1.1.2
 Employees, Contractor's
 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2,
 10.3, 11.1.1, 11.4.7, 14.1, 14.2.1.1
 Equipment, Labor, Materials and
 1.1.3, 1.1.6, 3.4, 3.5.1, 3.8.2, 3.8.3, 3.12, 3.13,
 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.6, 9.3.2, 9.3.3,
 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.2
 Execution and Progress of the Work
 1.1.3, 1.2.1, 1.2.2, 2.2.3, 2.2.5, 3.1, 3.3, 3.4, 3.5, 3.7,
 3.10, 3.12, 3.14, 4.2.2, 4.2.3, 4.3.3, 6.2.2, 7.1.3,
 7.3.4, 8.2, 9.5, 9.9.1, 10.2, 10.3, 12.2, 14.2, 14.3
 Extensions of Time
 3.2.3, 4.3.1, 4.3.4, 4.3.7, 4.4.5, 5.2.3, 7.2.1, 7.3,
 7.4.1, 9.5.1, 9.7.1, 10.3.2, 10.6.1, 14.3.2
Failure of Payment
 4.3.6, 9.5.1.3, **9.7**, 9.10.2, 14.1.1.3, 14.2.1.2, 13.6
 Faulty Work

(See Defective or Nonconforming Work)

Final Completion and Final Payment

4.2.1, 4.2.9, 4.3.2, 9.8.2, 9.10, 11.1.2, 11.1.3, 11.4.1, 11.4.5, 12.3.1, 13.7, 14.2.4, 14.4.3

Financial Arrangements, Owner's

2.2.1, 13.2.2, 14.1.1.5

Fire and Extended Coverage Insurance

11.4

GENERAL PROVISIONS

1

Governing Law

13.1

Guarantees (See Warranty)

Hazardous Materials

10.2.4, 10.3, 10.5

Identification of Contract Documents

1.5.1

Identification of Subcontractors and Suppliers

5.2.1

Indemnification

3.17, 3.18, 9.10.2, 10.3.3, 10.5, 11.4.1.2, 11.4.7

Information and Services Required of the Owner

2.1.2, 2.2, 3.2.1, 3.12.4, 3.12.10, 4.2.7, 4.3.3, 6.1.3, 6.1.4, 6.2.5, 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 11.4, 13.5.1, 13.5.2, 14.1.1.4, 14.1.4

Injury or Damage to Person or Property

4.3.8, 10.2, 10.6

Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.2, 9.8.3, 9.9.2, 9.10.1, 12.2.1, 13.5

Instructions to Bidders

1.1.1

Instructions to the Contractor

3.2.3, 3.3.1, 3.8.1, 4.2.8, 5.2.1, 7, 12, 8.2.2, 13.5.2

Insurance

3.18.1, 6.1.1, 7.3.6, 8.2.1, 9.3.2, 9.8.4, 9.9.1, 9.10.2, 9.10.5, 11

Insurance, Boiler and Machinery

11.4.2

Insurance, Contractor's Liability

11.1

Insurance, Effective Date of

8.2.2, 11.1.2

Insurance, Loss of Use

11.4.3

Insurance, Owner's Liability

11.2

Insurance, Project Management Protective Liability

11.3

Insurance, Property

10.2.5, 11.4

Insurance, Stored Materials

9.3.2, 11.4.1.4

INSURANCE AND BONDS

11

Insurance Companies, Consent to Partial Occupancy

Insurance Companies, Settlement with

11.4.10

Intent of the Contract Documents

1.2.1, 4.2.7, 4.2.12, 4.2.13, 7.4

Interest

13.6

Interpretation

1.2.3, 1.4, 4.1.1, 4.3.1, 5.1, 6.1.2, 8.1.4

Interpretations, Written

4.2.11, 4.2.12, 4.3.6

Joinder and Consolidation of Claims Required

4.6.4

Judgment on Final Award

4.6.6

Labor and Materials, Equipment

1.1.3, 1.1.6, 3.4, 3.5.1, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.6, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.2

Labor Disputes

8.3.1

Laws and Regulations

1.6, 3.2.2, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 4.4.8, 4.6, 9.6.4, 9.9.1, 10.2.2, 11.1, 11.4, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14

Liens

2.1.2, 4.4.8, 8.2.2, 9.3.3, 9.10

Limitation on Consolidation or Joinder

4.6.4

Limitations, Statutes of

4.6.3, 12.2.6, 13.7

Limitations of Liability

2.3, 3.2.1, 3.5.1, 3.7.3, 3.12.8, 3.12.10, 3.17, 3.18, 4.2.6, 4.2.7, 4.2.12, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 9.10.4, 10.3.3, 10.2.5, 11.1.2, 11.2.1, 11.4.7, 12.2.5, 13.4.2

Limitations of Time

2.1.2, 2.2, 2.4, 3.2.1, 3.7.3, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7, 4.3, 4.4, 4.5, 4.6, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 11.1.3, 11.4.1.5, 11.4.6, 11.4.10, 12.2, 13.5, 13.7, 14

Loss of Use Insurance

11.4.3

Material Suppliers

1.6, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.6, 9.10.5

Materials, Hazardous

10.2.4, 10.3, 10.5

Materials, Labor, Equipment and

1.1.3, 1.1.6, 1.6.1, 3.4, 3.5.1, 3.8.2, 3.8.23, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.6, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.2

Means, Methods, Techniques, Sequences and Procedures of Construction

3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2

Mechanic's Lien

4.4.8

Mediation

4.4.1, 4.4.5, 4.4.6, 4.4.8, 4.5, 4.6.1, 4.6.2, 8.3.1, 10.5

Minor Changes in the Work

1.1.1, 3.12.8, 4.2.8, 4.3.6, 7.1, 7.4

MISCELLANEOUS PROVISIONS

13

Modifications, Definition of

1.1.1

Modifications to the Contract

1.1.1, 1.1.2, 3.7.3, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7, 10.3.2, 11.4.1

Mutual Responsibility

6.2

Nonconforming Work, Acceptance of

9.6.6, 9.9.3, **12.3**

Nonconforming Work, Rejection and Correction of
2.3, 2.4, 3.5.1, 4.2.6, 6.2.5, 9.5.1, 9.8.2, 9.9.3, 9.10.4, 12.2.1, 13.7.1.3

Notice

2.2.1, 2.3, 2.4, 3.2.3, 3.3.1, 3.7.2, 3.7.4, 3.12.9, 4.3, 4.4.8, 4.6.5, 5.2.1, 8.2.2, 9.7, 9.10, 10.2.2, 11.1.3, 11.4.6, 12.2.2, 12.2.4, 13.3, 13.5.1, 13.5.2, 14.1, 14.2

Notice, Written

2.3, 2.4, 3.3.1, 3.9, 3.12.9, 3.12.10, 4.3, 4.4.8, 4.6.5, 5.2.1, 8.2.2, 9.7, 9.10, 10.2.2, 10.3, 11.1.3, 11.4.6, 12.2.2, 12.2.4, **13.3, 14**

Notice of Testing and Inspections

13.5.1, 13.5.2

Notice to Proceed

8.2.2

Notices, Permits, Fees and

2.2.2, **3.7**, 3.13, 7.3.6.4, 10.2.2

Observations, Contractor's

1.5.2, 3.2, 3.7.3, 4.3.4

Occupancy

2.2.2, 9.6.6, 9.8, 11.4.1.5

Orders, Written

1.1.1, 2.3, 3.9, 4.3.6, 7, 8.2.2, 11.4.9, 12.1, 12.2, 13.5.2, 14.3.1

OWNER

2

Owner, Definition of

2.1

Owner, Information and Services Required of the

2.1.2, **2.2**, 3.2.1, 3.12.4, 3.12.10, 4.2.7, 4.3.3, 6.1.3, 6.1.4, 6.2.5, 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 11.4, 13.5.1, 13.5.2, 14.1.1.4, 14.1.4

Owner's Authority

1.6, 2.1.1, 2.3, 2.4, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2, 4.1.3, 4.2.4, 4.2.9, 4.3.6, 4.4.7, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1, 7.3.1, 8.2.2, 8.3.1, 9.3.1, 9.3.2, 9.5.1, 9.9.1, 9.10.2, 10.3.2, 11.1.3, 11.3.1, 11.4.3, 11.4.10, 12.2.2, 12.3.1, 13.2.2, 14.3, 14.4

Owner's Financial Capability

2.2.1, 13.2.2, 14.1.1.5

Owner's Liability Insurance

11.2

Owner's Loss of Use Insurance

11.4.3

Owner's Right to Carry Out the Work

2.4, 12.2.4, 14.2.2.2

Owner's Right to Clean Up

6.3

Owner's Right to Perform Construction and to Award Separate Contracts

6.1

Owner's Right to Stop the Work

2.3

Owner's Right to Suspend the Work

14.3

Owner's Right to Terminate the Contract

14.2

Ownership and Use of Drawings, Specifications and Other Instruments of Service

1.1.1, **1.6**, 2.2.5, 3.2.1, 3.11.1, 3.17.1, 4.2.12, 5.3

Partial Occupancy or Use

9.6.6, **9.9**, 11.4.1.5

Patching, Cutting and

3.14, 6.2.5

Patents

3.17

Payment, Applications for

4.2.5, 7.3.8, 9.2, **9.3**, 9.4, 9.5.1, 9.6.3, 9.7.1, 9.8.5, 9.10.1, 9.10.3, 9.10.5, 11.1.3, 14.2.4, 14.4.3

Payment, Certificates for

4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7.1, 9.10.1, 9.10.3, 13.7, 14.1.1.3, 14.2.4

Payment, Failure of

4.3.6, 9.5.1.3, 9.7, 9.10.2, 14.1.1.3, 14.2.1.2, 13.6

Payment, Final

4.2.1, 4.2.9, 4.3.2, 9.8.2, 9.10, 11.1.2, 11.1.3, 11.4.1, 11.4.5, 12.3.1, 13.7, 14.2.4, 14.4.3

Payment Bond, Performance Bond and

7.3.6.4, 9.6.7, 9.10.3, 11.4.9, **11.5**

Payments, Progress

4.3.3, 9.3, 9.6, 9.8.5, 9.10.3, 13.6, 14.2.3

PAYMENTS AND COMPLETION

9

Payments to Subcontractors

5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 11.4.8, 14.2.1.2

PCB

10.3.1

Performance Bond and Payment Bond

7.3.6.4, 9.6.7, 9.10.3, 11.4.9, **11.5**

Permits, Fees and Notices

2.2.2, **3.7**, 3.13, 7.3.6.4, 10.2.2

PERSONS AND PROPERTY, PROTECTION

OF

10

Polychlorinated Biphenyl

10.3.1

Product Data, Definition of

3.12.2

Product Data and Samples, Shop Drawings

3.11, **3.12**, 4.2.7

Progress and Completion

4.2.2, 4.3.3, **8.2**, 9.8, 9.9.1, 14.1.4

Progress Payments

4.3.3, 9.3, **9.6**, 9.8.5, 9.10.3, 13.6, 14.2.3

Project, Definition of the

1.1.4

Project Management Protective Liability Insurance

11.3

Project Manual, Definition of the

1.1.7

Project Manuals

2.2.5

Project Representatives

4.2.10

Property Insurance

10.2.5, **11.4**

PROTECTION OF PERSONS AND PROPERTY

10

Regulations and Laws

1.6, 3.2.2, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 4.4.8, 4.6, 9.6.4, 9.9.1, 10.2.2, 11.1, 11.4, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14

Rejection of Work

3.5.1, 4.2.6, 12.2.1

Releases and Waivers of Liens

9.10.2

Representations

1.5.2, 3.5.1, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.8.2, 9.10.1

Representatives

2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.1, 4.2.10, 5.1.1, 5.1.2, 13.2.1

Resolution of Claims and Disputes

4.4, 4.5, 4.6

Responsibility for Those Performing the Work

3.3.2, 3.18, 4.2.3, 4.3.8, 5.3.1, 6.1.3, 6.2, 6.3, 9.5.1, 10

Retainage

9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3

Review of Contract Documents and Field Conditions by Contractor

1.5.2, **3.2**, 3.7.3, 3.12.7, 6.1.3

Review of Contractor's Submittals by Owner and Architect

3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2

Review of Shop Drawings, Product Data and Samples by Contractor

3.12

Rights and Remedies

1.1.2, 2.3, 2.4, 3.5.1, 3.15.2, 4.2.6, 4.3.4, 4.5, 4.6, 5.3, 5.4, 6.1, 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.2, 12.2.4, **13.4**, 14

Royalties, Patents and Copyrights

3.17

Rules and Notices for Arbitration

4.6.2

Safety of Persons and Property

1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2

10.2, 10.6

Safety Precautions and Programs

3.3.1, 4.2.2, 4.2.7, 5.3.1, **10.1**, 10.2, 10.6

Samples, Definition of

3.12.3

Samples, Shop Drawings, Product Data and

3.11, 3.12, 4.2.7

Samples at the Site, Documents and

3.11

Schedule of Values

9.2, 9.3.1

Schedules,

1.4.1.2, 3.10, 3.10.3, 3.12.2, 4.3.7.2, 6.1.3

Separate Contracts and Contractors

1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 4.6.4, 6, 8.3.1, 11.4.7, 12.1.2, 12.2.5

Shop Drawings, Definition of

3.12.1

Shop Drawings, Product Data and Samples

3.11, 3.12, 4.2.7

Site, Use of

3.13, 6.1.1, 6.2.1

Site Inspections

1.2.2, 3.2.1, 3.3.3, 3.7.1, 4.2, 4.3.4, 9.4.2, 9.10.1, 13.5

Site Visits, Architect's

4.2.2, 4.2.9, 4.3.4, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.5

Special Inspections and Testing

4.2.6, 12.2.1, 13.5

Specifications, Definition of the

1.1.6

Specifications, The

1.1.1, **1.1.6**, 1.1.7, 1.2.2, 1.6, 3.11, 3.12.10, 3.17

Statute of Limitations

4.6.3, 12.2.6, 13.7

Stopping the Work

2.3, 4.3.6, 9.7, 10.3, 14.1

Stored Materials

6.2.1, 9.3.2, 10.2.1.2, 10.2.4, 11.4.1.4

Subcontractor, Definition of

5.1.1

SUBCONTRACTORS

5

Subcontractors, Work by

1.2.2, 3.3.2, 3.12.1, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2, 9.6.7

Subcontractual Relations

5.3, 5.4, 9.3.1.2, 9.6, 9.10 10.2.1, 11.4.7, 11.4.8, 14.1, 14.2.1, 14.3.2

Submittals

1.6, 3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.6, 9.2, 9.3, 9.8, 9.9.1, 9.10.2, 9.10.3, 11.1.3

Subrogation, Waivers of

6.1.1, 11.4.5, **11.4.7**

Substantial Completion

4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, **9.8**, 9.9.1, 9.10.3, 9.10.4.2, 12.2, 13.7

Substantial Completion. Definition of

9.8.1
 Substitution of Subcontractors
 5.2.3, 5.2.4
 Substitution of Architect
 4.1.3
 Substitutions of Materials
 3.4.2, 3.5.1, 7.3.7
 Sub-subcontractor, Definition of
 5.1.2
 Subsurface Conditions
 4.3.4
 Successors and Assigns
13.2
Superintendent
3.9, 10.2.6
Supervision and Construction Procedures
 1.2.2, **3.3**, 3.4, 3.12.10, 4.2.2, 4.2.7, 4.3.3, 6.1.3, 6.2.4,
 7.1.3, 7.3.6, 8.2, 8.3.1, 9.4.2, 10, 12, 14
 Surety
 4.4.7, 5.4.1.2, 9.8.5, 9.10.2, 9.10.3, 14.2.2
 Surety, Consent of
 9.10.2, 9.10.3
 Surveys
 2.2.3
Suspension by the Owner for Convenience
14.4
 Suspension of the Work
 5.4.2, 14.3
 Suspension or Termination of the Contract
 4.3.6, 5.4.1.1, 11.4.9, 14
Taxes
3.6, 3.8.2.1, 7.3.6.4
Termination by the Contractor
 4.3.10, **14.1**
Termination by the Owner for Cause
 4.3.10, 5.4.1.1, **14.2**
 Termination of the Architect
 4.1.3
 Termination of the Contractor
 14.2.2
TERMINATION OR SUSPENSION OF THE
CONTRACT
14
Tests and Inspections
 3.1.3, 3.3.3, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1,
 10.3.2, 11.4.1.1, 12.2.1, **13.5**
TIME
8
Time, Delays and Extensions of
 3.2.3, 4.3.1, 4.3.4, **4.3.7**, 4.4.5, 5.2.3, 7.2.1, 7.3.1, 7.4.1,
8.3, 9.5.1, 9.7.1, 10.3.2, 10.6.1, 14.3.2
Time Limits
 2.1.2, 2.2, 2.4, 3.2.1, 3.7.3, 3.10, 3.11, 3.12.5, 3.15.1, 4.2,
 4.3, 4.4, 4.5, 4.6, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4,

8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9,
 9.10, 11.1.3, 11.4.1.5, 11.4.6, 11.4.10, 12.2, 13.5,
 13.7, 14
Time Limits on Claims
4.3.2, 4.3.4, 4.3.8, 4.4, 4.5, 4.6
 Title to Work
 9.3.2, 9.3.3
UNCOVERING AND CORRECTION OF
WORK
12
Uncovering of Work
12.1
 Unforeseen Conditions
 4.3.4, 8.3.1, 10.3
 Unit Prices
 4.3.9, 7.3.3.2
 Use of Documents
 1.1.1, 1.6, 2.2.5, 3.12.6, 5.3
Use of Site
3.13, 6.1.1, 6.2.1
Values, Schedule of
9.2, 9.3.1
 Waiver of Claims by the Architect
 13.4.2
 Waiver of Claims by the Contractor
 4.3.10, 9.10.5, 11.4.7, 13.4.2
 Waiver of Claims by the Owner
 4.3.10, 9.9.3, 9.10.3, 9.10.4, 11.4.3, 11.4.5, 11.4.7,
 12.2.2.1, 13.4.2, 14.2.4
Waiver of Consequential Damages
4.3.10, 14.2.4
 Waiver of Liens
 9.10.2, 9.10.4
Waivers of Subrogation
 6.1.1, 11.4.5, **11.4.7**
Warranty
3.5, 4.2.9, 4.3.5.3, 9.3.3, 9.8.4, 9.9.1, 9.10.4, 12.2.2,
13.7.1.3
 Weather Delays
 4.3.7.2
 Work, Definition of
 1.1.3
 Written Consent
 1.6, 3.4.2, 3.12.8, 3.14.2, 4.1.2, 4.3.4, 4.6.4, 9.3.2,
 9.8.5, 9.9.1, 9.10.2, 9.10.3, 11.4.1, 13.2, 13.4.2
 Written Interpretations
 4.2.11, 4.2.12, 4.3.6
Written Notice
 2.3, 2.4, 3.3.1, 3.9, 3.12.9, 3.12.10, 4.3, 4.4.8, 4.6.5,
 5.2.1, 8.2.2, 9.7, 9.10, 10.2.2, 10.3, 11.1.3, 11.4.6,
 12.2.2, 12.2.4, **13.3, 14**
 Written Orders
 1.1.1, 2.3, 3.9, 4.3.6, 7, 8.2.2, 11.4.9, 12.1, 12.2,
 13.5.2, 14.3.1

ARTICLE 1 GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Agreement between Owner and Contractor (hereinafter 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 other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid 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 Architect and Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor or (3) between any persons or entities other than the Owner and 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 or by separate contractors.

1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, 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, construction systems, standards and workmanship for the Work, and performance of related services.

1.1.7 THE PROJECT MANUAL

The Project Manual is the volume usually assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

1.2 EXECUTION, CORRELATION AND INTENT

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

1.2.3 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 intended results.

1.2.4 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.

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

1.3 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

1.3.1 The Drawings, Specifications and other documents prepared by the Architect are Instruments of the Architect's service through which the Work to be executed by the Contractor is described. The Contractor may retain one contract record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications, and other documents prepared by the Architect, and unless otherwise indicated the Architect shall be deemed the author of them and will retain all common law, statutory and other reserved rights, in addition to the copyright. All copies of them, except the Contractor's record set, shall be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, specifications, and other documents prepared by the Architect, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor, or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner and Architect. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this license shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect. 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 copyright or other reserved rights.

1.4 CAPITALIZATION

1.4.1 Terms capitalized in these General Conditions include those which are (1) specifically defined, (2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs and Clauses in the document or (3) the titles of other documents published by the American Institute of Architects

1.5 INTERPRETATION

1.5.1 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.

ARTICLE 2 OWNER

2.1 DEFINITION

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 term “Owner” means the Owner or the Owner’s authorized representative

2.1.2 The Owner upon reasonable written request shall furnish to the Contractor in writing information which is 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 at the time of execution of the Agreement and, within five days after any change, information of such change in title, recorded or unrecorded.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

2.2.1 The Owner shall, at the request of the Contractor, prior to execution of the Agreement and promptly from time to time thereafter, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner’s obligations under the Contract. [Note: Unless such reasonable evidence were furnished on request prior to the execution of the Agreement, the prospective contractor would not be required to execute the Agreement or to commence the Work.]

2.2.2 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.

2.2.3 Except for permits and fees which are the responsibility of the Contractor under the Contract Documents, 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.

2.2.4 Information or services under the Owner’s control shall be furnished by the Owner with reasonable promptness to avoid delay in orderly progress of the Work.

2.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished) free of charge, such copies of Drawings and Project Manuals as are reasonably necessary for execution of the Work.

2.2.6 The foregoing are In addition to other duties and responsibilities of the Owner enumerated herein and especially chose in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion) and Article 11 (Insurance and Bonds).

2.3 OWNER’S RIGHT TO STOP THE WORK

2.3.1 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or persistently fails to carry out Work in accordance with the Contract Documents, the Owner, by written order signed personally or by an agent specifically so empowered by the Owner in writing, may order 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 Subparagraph 6 1 3.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-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 after such seven-day period give the Contractor a second written notice to correct such deficiencies within a second seven-day period. If the Contractor within such second seven day period after receipt of such second notice fails to commence and continue to correct any deficiencies, 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 cost of correcting such deficiencies, including compensation for the Architect's additional services and expenses 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 DEFINITION

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 term "Contractor" means the Contractor' or the Contractor's authorized representative.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with Information furnished by the Owner pursuant to Subparagraph 2.22 and shall at once report to the Architect errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Documents unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of the attributable costs for correction.

3.2.2 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the Architect at once.

3.2.3 The Contractor shall perform the Work In accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

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 Contract Documents give other specific instructions concerning these matters.

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 performing portions of the Work under a contract with the Contractor.

3.3.3 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 other than the Contractor.

3.3.4 The Contractor shall be responsible for inspection of portions of Work already performed under this Contract 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.

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

3.5 WARRANTY

3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under 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

3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor which 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 AND NOTICES

3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded.

3.7.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Work.

3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate Modification.

3.7.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs.

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

entitles as the Owner may direct, but the Contractor shall not be required to employ persons or entitles against which the Contractor makes reasonable objection.

3.8.2 Unless otherwise provided in the Contract Documents:

.1 materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;

.2 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.3 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 and not in the allowances;

.4 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 Clause 3.8.2.2 and (2) changes in Contractor's costs under Clause 3.8.2.3.

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. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

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 and keep current, for the Architect's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Architect reasonable time to review submittals.

3.10.3 The Contractor shall conform to the most recent schedules.

3.11 DOCUMENTS AND SAMPLES AT THE SITE

3.11.1 The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record changes and selections made during construction, and in addition 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.

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 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 which 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. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect is subject to the limitations of Subparagraph 4.2.7.

3.12.5 The Contractor shall review, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents 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. Submittals made by the Contractor which are not required by the Contract Documents may be returned without action.

3.12.6 The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect. Such Work shall be in accordance with approved submittals.

3.12.7 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the Information contained within such submittals with the requirements of the Work and of the Contract Documents.

3.12.8 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 the Architect has given written approval to the specific 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.

3.12.10 Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents.

3.12.11 When professional certification performance criteria of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.13 USE OF SITE

3.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits 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.

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 from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

3.16 ACCESS TO WORK

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

3.17 ROYALTIES AND PATENTS

3.17.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims the Infringement of 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. However, if the Contractor has reason to believe that the required design, process or product is an infringement of 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) including loss of use resulting therefrom, but only to the extent caused in whole or in part by 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 which would otherwise exist as to a party or person described in this Paragraph 3.18.

3.18.2 In claims against any person or entity indemnified under this Paragraph 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 this Paragraph 3.18 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

3.18.3 The obligations of the Contractor under this Paragraph 3.18 shall not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or Instructions by the Architect, the Architect's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

ARTICLE 4

ADMINISTRATION OF THE CONTRACT 4.1 ARCHITECT

4.1.1 The Architect is the person lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative.

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 In case of termination of employment of the Architect, the Owner shall appoint an architect against whom the Contractor makes no reasonable objection and whose status under the Contract Documents shall be that of the former architect.

4.1.4 Disputes arising under Subparagraphs 4.1.2 and 4.1.3 shall be subject to arbitration.

4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

4.2.1 The Architect will provide administration of the Contract as described In the Contract Documents, and will be the Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the correction period described in Paragraph 12.2. The Architect will advise and consult with the Owner. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with other provisions of the Contract.

4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when 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 quality or quantity of the Work on the basis of on site observations as an architect, the Architect will keep the Owner informed of progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work.

4.2.3 The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Paragraph 3.3. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with 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 of any other persons 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 through the Architect. 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 observations and 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 will have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect will have authority to require additional Inspection or testing of the Work in accordance with Subparagraphs 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect not 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, theft agents or employees, or other persons 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 with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, 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 Paragraphs 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 Paragraph 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, will 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, and will issue a final certificate for Payment upon compliance with the requirements of the Contract Documents.

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 with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.2, then delay shall not be recognized on account of failure by the Architect to finish such interpretations until 15 days after written request is made for them.

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 initial 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 so 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.

4.3 CLAIMS AND DISPUTES

4.3.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time 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. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

4.3.2 Decision of Architect Claims. Including those alleging an error or omission by the Architect shall be referred initially to the Architect for action as provided In Paragraph 4.4. A decision by the Architect, as provided in Subparagraph 4.4.4, shall be required as a condition precedent to arbitration or litigation of a Claim between the Contractor and Owner as to all such matter's arising prior to the date final payment is due, regardless of (1) whether such matters relate to execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by the Architect in response to a Claim shall not be a condition precedent to arbitration or litigation In the event (1) the position of Architect is vacant, (2) the Architect has not received evidence or has failed to render a decision within agreed time limits, (3) the Architect has failed to take action required under Subparagraph 4.4.4 within 30 days after the Claim is made, (4) 45 days have passed after the Claim has been referred to the Architect or (5) the Claim relates to a mechanic's lien.

4.3.3 Time Limits on Claims. Claims by either party must be made 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. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

4.3.4 Continuing Contract Performance. Pending final resolution of a Claim including arbitration, unless otherwise agreed in writing the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

4.3.5 Waiver of Claims: Final Payment. 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 tents of special warranties required by the Contract Documents.

4.3.6 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which 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, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days alter first observance of the conditions. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractors 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 so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice o the decision. If the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for Initial determination, subject to further proceedings pursuant to Paragraph 4.4.

4.3.7 Claims for Additional Cost. If the Contractor wishes to make 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 Paragraph 10.3. If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work Issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's Suspension or (7) other reasonable grounds, Claim shall be filed in accordance with the procedure established herein.

4.3.8 Claims for Additional Time

4.3.8.1 If the Contractor wishes to make 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 probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

4.3.8.2 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 and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.

4.3.9 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, 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 first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Subparagraphs 4.3.7 or 4.3.8.

4.4 RESOLUTION OF CLAIMS AND DISPUTES

4.4.1 The Architect will review Claims and take one or more of the following preliminary actions within ten days of receipt of a Claim: (1) request additional supporting data from the claimant, (2) submit a schedule to the pier indicating when the Architect expects to take action, (3) reject the Claim a whole or in part, stating reasons for rejection, (4) recommend approval of the Claim by the other party or (5) suggest a compromise. The Architect may also, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim.

4.4.2 If a Claim has been resolved, the Architect will prepare or obtain appropriate documentation

4.4.3 If a Claim has not been resolved, the party making the Claim shall, within ten days after the Architect's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Architect, (2) modify the initial Claim or (3) notify the Architect that the Initial Claim stands.

4.4.4 If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect will notify the parties in writing that the Architect's decision will be made within seven days, which decision shall be final and binding on the parties but subject to arbitration. Upon expiration of such time period, the Architect will render to the parties the Architect's written decision relative to the Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Contractor's default, the Architect may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

4.5 ARBITRATION

4.5.1 Controversies and Claims Subject to Arbitration. Any controversy or Claim arising out of or related to the Contract, or the breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction thereof, except Controversies or Claims relating to aesthetic effect and except those waived as provided for in Subparagraph 4.3.5 Such controversies or Claims upon which the Architect has given notice and rendered a decision as provided in Subparagraph 4.4 shall be subject to arbitration upon written demand of either party. Arbitration may be commenced when 45 days have passed after a Claim has been referred to the Architect as provided in Paragraph 4.3 and no decision has been rendered.

4.5.2 Rules and Notices for Arbitration. Claims between the Owner and Contractor not resolved under Paragraph 4.4 shall, if subject to arbitration under Subparagraph 4.5.1 be decided by arbitration

in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect, unless the parties mutually agree otherwise. Notice of demand for arbitration shall be filed in writing with the other party to the Agreement between the Owner and Contractor and with the American Arbitration Association, and a copy shall be filed with the Architect.

4.5.3 Contract Performance During Arbitration. During arbitration proceedings, the Owner and Contractor shall comply with Subparagraph 4.3.4

4.5.4 When Arbitration May Be Demanded. Demand for arbitration of any Claim may not be made until the earlier of (1) the date on which the Architect has rendered a final written decision on the Claim, (2) the tenth day after the parties have presented evidence to the Architect or have been given reasonable opportunity to do so, if the Architect has not rendered a final written decision by that date, or (3) any of the five events described in Subparagraph 4.3.2

4.5.4.1 When a written decision of the Architect states that (1) the decision is final but subject to arbitration and (2) a demand for arbitration of a Claim covered by such decision must be made within 30 days after the date on which the party making the demand receives the final written decision, then failure to demand arbitration within said 30 days period shall result in the Architect's decision becoming final and binding upon the Owner and Contractor. If the Architect renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence, but shall not supersede arbitration proceedings unless the decision is acceptable to all parties concerned.

4.5.4.2 A demand for arbitration shall be made within the time limits specified in Subparagraphs 4.5.1 and 4.5.4 and Clause 4.5.4.1 as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations as determined pursuant to Paragraph 13.7.

4.5.5 Limitation on Consolidation or Joinder. No arbitration arising out of or relating to the Contract Documents shall include, by consolidation or joinder or in any other manner, the Architect, the Architect's employees or consultants, except by written consent containing specific reference to the Agreement and signed by the Architect, Owner, Contractor and any other person or entity sought to be joined. No arbitration shall include, by consolidation or joinder or in any other manner, parties other than the Owner, Contractor, a separate contractor as described in Article 6 and other persons substantially involved in a common question of fact or law whose presence is required if complete relief is to be accorded in arbitration. No person or entity other than the Owner, Contractor or a separate contractor as described in Article 6 shall be included as an original third party or additional third party to an arbitration whose interest or responsibility is insubstantial. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a dispute not described therein or with a person or entity not named or described therein. 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.

4.5.6 Claims and Timely Assertion of Claims. A party who files 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. When a party fails to include a Claim through oversight, inadvertence or excusable neglect, or when a Claim has matured or been acquired subsequently, the arbitrator or arbitrators may permit amendment.

4.5.7 Judgment on Final Award. 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.

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 subcontractor's 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 will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect, after due investigation has reasonable objection to any such proposed person or entity Failure of the Owner or Architect to reply promptly 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. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued However, no increase in the Contract Sum 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 change a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such change.

5.3 SUBCONTRACTUAL RELATIONS

5.3.1 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 which the Contractor, by these Documents, assumes toward the Owner and Architect. 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 which 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 Paragraph 14.2 and only for those subcontract agreements which 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.

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.

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 elsewhere in the Contract Documents.

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 when directed to do so. 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 which 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 Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.

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

6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Paragraph 4.3 provided the separate contractor has reciprocal obligations.

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

6.3 OWNER'S RIGHT TO CLEAN UP

6.3.1 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 CHANGES

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.

7.1.4 If unit prices are stated in the contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive 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.

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

7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Subparagraph 7.3.3.

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 Subparagraph 7.3.6.

7.3.4 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.

7.3.5 A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor 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.

7.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Architect 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, a reasonable allowance for overhead and profit. In such case, and also under Clause 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 Subparagraph 7.3.6 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.

7.3.7 Pending final determination of cost to the Owner, amounts not in dispute may be included In Applications for Payment. The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which 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.

7.3.8 Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work shall be included in Applications for

Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs. For any portion of such cost that remains in dispute, the Architect will make an interim determination for purposes of monthly certification for payment for those costs. That 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 4.

7.3.9 When the Owner and Contractor agree with the 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 shall be recorded by preparation and execution of an appropriate Change Order.

7.4 MINOR CHANGES IN THE WORK

7.4.1 The Architect will have 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 shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

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 Paragraph 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. Unless the date of commencement is established by the Contract Documents or a notice to proceed given by the Owner, the Contractor shall notify the Owner in writing not less than five days or other agreed period before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

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 which 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 Paragraph 4.3.

8.3.3 This Paragraph 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

9.1.1 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

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to various portions of the Work, 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 for operations completed in accordance with the schedule of values. 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 reflecting retainage if provided for in the Contract Documents.

9.3.1.1 As provided in Subparagraph 7.3.8, such applications may include requests for payment on account of changes in the Work which 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 Such applications may not include requests for payment for portions of the Work for which the Contractor does not intend to pay to 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 Subparagraph 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 the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, 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 Subparagraph 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 Subparagraph 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 Subparagraph 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 another 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 persistent 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.

9.6 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 promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such 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 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 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 Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 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

9.7.1 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 arbitration, 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 which 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 Clause 11.4.1.5 and authorized by public authorities having jurisdiction over the Work. 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 Subparagraph 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 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 Subparagraph 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

10.1.1 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 give notices and comply with applicable laws, ordinances, rules, 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 Clauses 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 Clauses 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 paragraph 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 load or permit any part of the construction or site to be loaded so as to endanger its safety.

10.3 HAZARDOUS MATERIALS

10.3.1 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 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 verify that it has been 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. 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, which adjustments shall be accomplished as provided in Article 7.

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 Subparagraph 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) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

10.4 The Owner shall not be responsible under Paragraph 10.3 for materials and substances brought to the site by the Contractor unless such materials or substances were required by the Contract Documents.

10.5 If, without negligence on the part of the Contractor, the Contractor is held liable 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

10.6 EMERGENCIES CONSTRUCTION

10.6.1 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 Paragraph 4.3 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 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 which 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 Paragraph 3.18.

11.1.2 The insurance required by Subparagraph 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. Coverage's, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These certificates and the insurance policies required by this Paragraph 11.1 shall contain a provision that coverage's 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. If any of the foregoing insurance coverage's are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Subparagraph 9.10.2. 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 in accordance with the Contractor's information and belief.

11.2 OWNER'S LIABILITY INSURANCE

11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability Insurance. Optionally, the Owner may purchase and maintain other insurance for self- protection

against claims which may arise from operations under' the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability Insurance unless specifically required by the Contract Documents.

11.3 PROJECT MANAGEMENT PROTECTIVE LIABILITY INSURANCE

11.3.1 Optionally, the Owner may require the Contractor to purchase and maintain Project Management Protective Liability insurance from the Contractor's usual sources as primary coverage for the Owner's, Contractor's and Architect's vicarious liability for construction operations under the Contract. Unless otherwise required by the Contract Documents, the Owner shall reimburse the Contractor by increasing the Contract Sum to pay the cost of purchasing and maintaining such optional insurance coverage and the Contractor shall not be responsible for purchasing any other liability insurance on behalf of the Owner. The minimum limits of liability purchased with such coverage shall be equal to the aggregate of the limits required for Contractor's Liability Insurance under Clauses 11.1.1.2 through 11.1.1.5.

11.3.2 To the extent damages are covered by Project Management Protective Liability insurance, the Owner, Contractor and Architect waive all rights against each other for damages, except such rights as they may have to the proceeds of such insurance. The policy shall provide for such waivers of subrogation by endorsement or otherwise.

11.3.3 The Owner shall not require the Contractor to include the Owner, Architect or other persons or entities as additional insured's on the Contractor's Liability Insurance coverage under Paragraph 11.1.

11.4 PROPERTY INSURANCE

11.4.1 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 Paragraph 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph 11.4 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

11.4.1.1 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, false work, 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.

11.4.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverage's 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 which 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.

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

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

11.4.1.5 Partial occupancy or use in accordance with Paragraph 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.

11.4.2 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 insured's.

11.4.3 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.

11.4.4 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.

11.4.5 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 Subparagraph 11.4.7 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.

11.4.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverage's required by this Paragraph 11.4. 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.

11.4.7 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 Paragraph 11.4 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.

11.4.8 A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insured's, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Subparagraph 11.4.10. 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.

11.4.9 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 in accordance with an arbitration award in which case the procedure shall be as provided in Paragraph 4.6. 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.

11.4.10 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 as provided in Paragraphs 4.5 and 4.6. The Owner as fiduciary shall, in the case of arbitration, make settlement with insurers in accordance with directions of the arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

11.5 PERFORMANCE BOND AND PAYMENT BOND

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

11.5.2 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 permit a copy to be made.

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 required 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 which the Architect has not specifically requested to examine prior to it's 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, 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

12.2.1.1 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 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 Paragraph 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 Subparagraph 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 Paragraph 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 performance 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 Paragraph 12.2.

12.2.3 The Contractor shall remove from the site portions of the Work which 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 which is not in accordance with the requirements of the Contract Documents.

12.2.5 Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the one-year period for correction of Work as described in Subparagraph 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

12.3.1 If the Owner prefers to accept Work which 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

13.1.1 The Contract shall be governed by the law of the place where the Project is located.

13.2 SUCCESSORS AND ASSIGNS

13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Subparagraph 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 an institutional lender providing construction financing for the Project. In such event, the lender shall assume 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

13.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or 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 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 there under 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 required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. 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 tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

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 Subparagraph 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 Subparagraph 13.5.3, shall be at the Owner's expense.

13.5.3 If such procedures for testing, inspection or approval under Subparagraphs 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

13.6.1 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 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

13.7.1 as between the Owner and Contractor:

.1 Before Substantial Completion. As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of Substantial Completion;

.2 Between Substantial Completion and Final Certificate for Payment. As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of issuance of the final Certificate for Payment; and

.3 After Final Certificate for Payment. As to acts or failures to act occurring after the relevant date of issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to any Warranty provided under Paragraph 3.5, the date of any correction of the Work or failure to correct the Work by the Contractor under Paragraph

12.2, or the date of actual commission of any other act or failure to perform any duty or Obligation by the Contractor or Owner, whichever occurs last.

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 which requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency which 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 Subparagraph 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 Subparagraph 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 Paragraph 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 Subparagraph 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 and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit 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 persistently 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 Subparagraph 14.1.3.

14.2 TERMINATION BY THE OWNER FOR CAUSE

14.2.1 The Owner may terminate the Contract if the Contractor:

- .1 persistently or 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 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; 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 Architect 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 takes possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 accept assignment of subcontracts pursuant to Paragraph 5.4; and
- .3 finish the Work by whatever reasonable method the Owner may deem expedient. Upon 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 Subparagraph 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 Architect, 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 Subparagraph 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 ceases 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.



RECREATION AND PARKS

Project:	Sycamore Hill Gateway Plaza	Project	PC-0073
Opening:	Jaycee Park, 2000 Cedar Lane, Greenville, NC	Date:	Thursday, April 11, 2019 2:05 PM

CONTRACTOR	Berry Building Group		
ADDRESS	1916 Tybee Ct Winterville, NC 28590		
LICENSE NO.	81204		

DESCRIPTION	Cost	Cost	Cost
BASE BID:	\$2,280,000.00		

ALTERNATE ITEMS:			
1)	Substitute granite pavers (markers)	(\$32,000.00)	
2)	Substitute granite paver setting bed	(\$10,000.00)	
3)	Substitute planting with 2" caliper trees	(\$1,000.00)	
4)	Substitute planting with 3 gal. boxwoods	(\$4,500.00)	
5)	Reduce ground cover and area	(\$6,000.00)	
6)	Omit stone base for concrete paving	(\$1,000.00)	
7)	Reduce sidewalk thickness to 4"	(\$1,000.00)	
8)	Substitute colored concrete for pavers	(\$140,000.00)	
9)	Substitute colored concrete for pavers	Duplication of #8	
10)	Omit associated work on Sycamore Grove	(\$50,000.00)	

UNIT PRICES:			
1)	Unit Pavers Square Foot	\$20 standard / \$330 decorative	
2)	Reinforced Concrete Cubic Yard	\$975.00	

REQUIREMENTS:			
Acknowledge Addendum	Yes		
Signature/Firm Info.	Yes		
Bid Bond	Yes		
M/WBE Forms	Yes		

Certified by: Mike Watson
 Mike Watson, Parks Coordinator



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Resolution to convey the City-owned lot (PIN 26957), which is situated adjacent to 302 South Greene Street (Chamber of Commerce), by private sale to the Historic Preservation Foundation of NC, Inc., to be the future site of the historic Jones-Lee House

Explanation: **Abstract:** The City wishes to convey a City-owned parcel adjacent to 302 South Greene Street to the Historic Preservation Foundation of NC, Inc., to be used for the relocation of the historic Jones-Lee House.

Explanation: The attached resolution is to convey the City-owned lot (PIN 26957), which is situated adjacent to 302 South Greene Street (Chamber of Commerce), by private sale to the Historic Preservation Foundation of NC, Inc., a North Carolina non-profit corporation .

The City will convey the property to the Historic Foundation of NC, Inc., subject to adequate consideration and covenants placed in the deed conveying the lot assuring the lot will be used for the sole purpose of placement of the Jones-Lee House onto the lot and preserving the historic landmark character of the house. If for any reason the lot shall not be used as the site for the Jones-Lee House or the house ceases to be located on the lot, ownership of the lot shall revert to the City of Greenville, NC.

Fiscal Note: To be determined.

Recommendation: Staff recommends approval

ATTACHMENTS:

▣ **Resolution_Jones-Lee_House_Private_Sale_-_1_-_COG_1108504**

RESOLUTION NO. __ -19
RESOLUTION AUTHORIZING THE SALE OF PROPERTY
BY PRIVATE NEGOTIATION AND SALE

WHEREAS, the City desires to preserve the Jones-Lee House located at 805 Evans Street, identified as Pitt County Tax Parcel No. 12469;

WHEREAS, because of its demonstrated historic, architectural, and/or archaeological significance, on October 20, 1988, by Ordinance No. 1905, which is duly recorded in Book 199, Page 72 of the Pitt County Registry, City Council, designated the Jones-Lee House as historic property pursuant to Part 3B, Article 19, Chapter 160A of the General Statutes of North Carolina and Title 9, Chapter 10 of the Code of Ordinances of the City of Greenville;

WHEREAS, the Jones-Lee House, which is privately owned, is currently the subject of a certificate of appropriateness for demolition which now authorizes demolition because the one year delay of demolition has expired and the House is now subject to demolition;

WHEREAS, the City is currently negotiating an agreement with The Historic Preservation Foundation of North Carolina, Inc. ("Foundation") for the sole purpose of preserving the Jones-Lee House by moving the House onto that certain City-owned parcel located at 304 S. Greene Street, identified as Pitt County Tax Parcel No. 26957, and being more particularly described as Parcel Number 2 in Deed recorded in Book W-34, Page 466 of the Pitt County Registry and is further identified herein as the "Greene lot";

WHEREAS, the City currently owns the Greene lot, and the City is interested in selling the Greene lot, with appropriate historic preservation covenants, to the Foundation;

WHEREAS, the City has authority pursuant to N.C.G.S. § 160A-266(b) to dispose of real property for historic preservation purposes by private negotiation and sale, and to place a preservation agreement into the deed of such property;

WHEREAS, the current tax value of the Greene lot is \$42,700.00;

WHEREAS, the restrictive covenants required to be placed upon the Greene lot to preserve and protect the Jones-Lee House will greatly reduce the value of the Greene lot, and any developer moving the Jones-Lee House to the Greene lot will incur expenses and such developer will have to comply with historic landmark standards set forth in the applicable laws; and

WHEREAS, a public purpose is served by conveying the Greene lot to the Foundation to ensure that the Jones-Lee House is protected and preserved;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville as follows:

- A. That it offers to sell and dispose of the Greene lot by private sale for the nominal amount of consideration of \$500.00 to the Foundation.

- B. City and Foundation shall enter an agreement which shall provide at a minimum that:
1. The Greene lot shall revert back to the City if the Jones-Lee House (“House”) is not relocated to the Greene lot within a certain specified amount of time, or if the House ceases to exist on the Greene lot;
 2. Conveyance of the deed from the City to Foundation shall include restrictive covenants to ensure historic character of the Jones-Lee House is preserved and that such covenants run with the land and are binding on all future owners.
- C. Council authorizes the appropriate City officials (City Manager or Mayor) to execute the instruments necessary to convey the property subject to conditions herein to the Foundation.
- D. A notice summarizing the contents of the resolution shall be published once after its adoption, and no sale shall be consummated thereunder until 10 days after its publication. See N.C.G.S. § 160A-267.

This 20th day of May, 2019.

P.J. Connelly, Mayor

ATTEST:

Carol L. Barwick, City Clerk



City of Greenville, North Carolina

Meeting Date: 5/20/2019
Time: 6:00 PM

Title of Item: Acceptance of Conveyance of Property from Redevelopment Commission to City of Greenville

Explanation: **Abstract:** City staff recommends acceptance by the City of two Redevelopment Commission-owned parcels located on Evans Street. The City plans to seek proposals for the use of the property to create economic development opportunities and/or other public purposes.

Explanation: City staff recommends acceptance by the City of two Redevelopment Commission-owned parcels on Evans Street for nominal consideration (\$1.00).

The Commission approved this conveyance at its May 7, 2019 meeting. (See resolution attached).

North Carolina General Statute 160A-274(b) provides that [a]ny governmental unit may, upon such terms and conditions as it deems wise, with or without consideration sell to any other governmental unit any interest in real property. The Commission and City are both governmental units.

By a deed dated July 18, 2012, the Redevelopment Commission acquired 2 lots near the intersection of Evans Street and East 5th Street, being parcel numbers 14486 (421 Evans Street) and 51695 (423 Evans Street), (hereafter 'property'). City staff recommends that the lots be accepted by the City.

Fiscal Note: There is not an expense associated with this item.

Recommendation:

City staff recommends that the City Council adopt a motion authorizing the acceptance of the following two lots from the Redevelopment Commission to the City of Greenville:

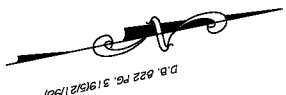
- Being the property located in the City of Greenville, North Carolina, consisting of approximately .19 acres located near the intersection of Evans Street and East Fifth Street, and being Tax Parcels #14486 (421 Evans Street) and 51695 (423 Evans Street);
- The City shall pay nominal consideration (\$1.00), and plans to seek to utilize the property to create economic development opportunities and/or other public purposes.

ATTACHMENTS:

- ☐ **RDC Map**
- ☐ **RDC resolution to convey property**

SITE DATA

NUMBER OF LOTS	2
AREA IN LOT	6,239 SQ. FT.
AREA IN STREET RIGHT OF WAY	0 SQ. FT.
AREA IN PARKS, RECREATION AREAS	0 SQ. FT.
TOTAL AREA	6,242 SQ. FT.

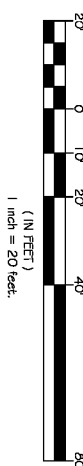


NOTES

- ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
- THE DESIGNATION NOTED OVER WATER, SANITARY SEWER, GAS, DRAINAGE, OR ELECTRIC LINES IS FOR THE PURPOSE OF ESTABLISHING THE WIDTH OF SAID UTILITY EASEMENTS. THE UTILITY EASEMENTS ARE NOT EXCLUSIVE AND WILL PERMIT THE INSTALLATION OF WATER, SANITARY SEWER, GAS, DRAINAGE, AND ELECTRIC LINES WITHIN THOSE DESIGNATED WIDTHS.
- PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. REF: FIRN 8720468900K, DATED JULY 7, 2014.
- NO BUILDINGS, STRUCTURES OR OTHER IMPROVEMENTS, MATERIALS AND ACCESSORY STRUCTURES AND ADDITIONS OR APPLIANCE THEREON, SIGNAGE, FENCES, WALLS, MECHANICAL EQUIPMENT, CANOPIES, ANTENNAS, MASTS, MATERIALS, DEBRIS, SOLID WASTE COLLECTION CONTAINERS, MAIL RECEPTACLES AND IMPERVIOUS SURFACES, SHALL ENROACH WITHIN ANY DEDICATED EASEMENT SHOWN ON THIS GENERAL SURVEY. THE PUBLIC WORKS DEPARTMENT OF THE CITY OF GREENVILLE HAS REVIEWED AND APPROVED THIS SURVEY FOR UTILITIES COMMISSION.

PRELIMINARY MAP/ REVIEW COPY
NOT FOR CONVEYANCE OR SALE.

GRAPHIC SCALE



REVISIONS PLAT
CITY OF GREENVILLE
BRING THE REVISION OF THE LOTS AS SHOWN ON MAP TITLED "BOUNDARY SURVEY FOR THE CITY OF GREENVILLE, RECORDED IN MAP BOOK 68, PAGE 139 GREENVILLE, GREENVILLE TOWNSHIP, FULTON COUNTY, NORTH CAROLINA"

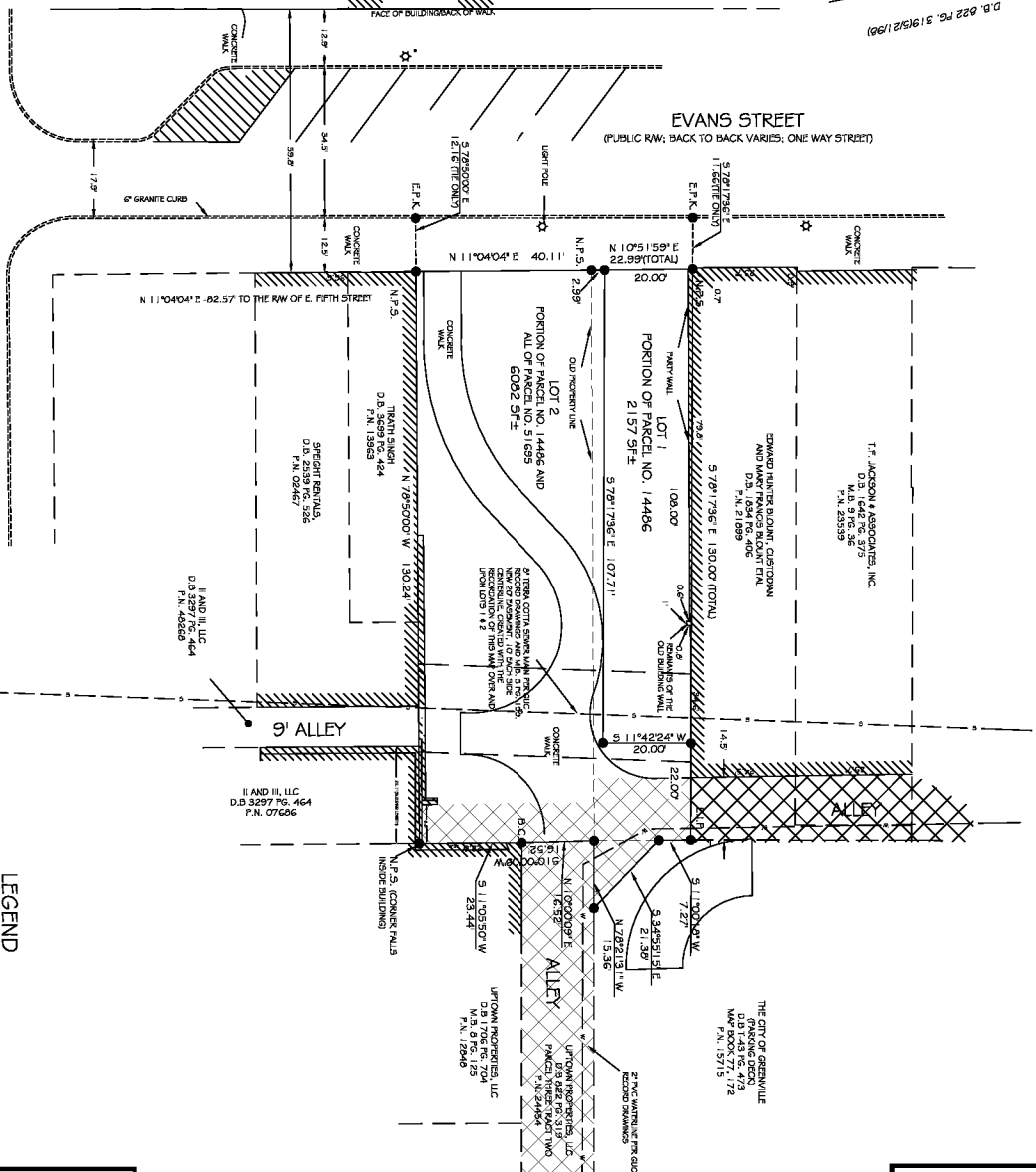
OWNER:
OF GREENVILLE
REDEVELOPMENT COMMISSION

ADDRESS: PO BOX 7207, GREENVILLE, NC 27835

PHONE: 252-329-4467

City of Greenville
Public Works, Engineering
1500 BEATTY STREET
GREENVILLE, NC 27834
(252) 329-4467

SURVEYED: BLM	APPROVED: SG
DRAWN: BLM	DATE: 12-19-18
CHECKED: SG	SCALE: 1" = 20'



E. FIFTH STREET)
(PUBLIC RW, 35' BACK TO BACK)

LEGEND

- - IPS = IRON PIPE SET
- - EP = EXISTING IRON PIPE
- - EPK = EXISTING PARKER TALKON MAIL
- - NPS = NO POINT SET, POINTS NOT LABELED

VICINITY MAP



SOURCE OF TITLE

THIS IS TO CERTIFY THAT THE LAST OF THE INSTRUMENTS IN THE CHAIN OF TITLE OF THE COUNTY RESIDES IN GREENVILLE, NORTH CAROLINA ARE:
DEED BOOK 2993, PAGE 064
DEED BOOK 431, PAGE 364
DEED BOOK 414, PAGE 616
DEED BOOK 62, PAGE 139
MAP BOOK 68, PAGE 139

OWNERS STATEMENT

THIS IS EVIDENCE THAT THIS SUBDIVISION IS MADE AT THE REQUEST OF:
SIGNED _____ DAY OF _____, 2019.
SIGNED _____ DAY OF _____, 2019.

APPROVAL

THIS FINAL PLAT NO. _____ WAS APPROVED BY THE SUBDIVISION REVIEW BOARD IN ACCORDANCE WITH TITLE 9, CHAPTER 5 OF THE GREENVILLE CITY CODE THIS _____, 2019.
SIGNED _____ CITY MANAGER

OWNERS DEDICATION STATEMENT

WE, THE UNDERSIGNED, HEREBY ACKNOWLEDGE THIS PLAT AND ALLOTMENT TO BE THEIR FREE ACT AND DEED, AND HEREBY DEDICATE TO PUBLIC USE AS STREETS, PARKS, PLAYGROUNDS, OPEN SPACES AND EASEMENTS FOREVER ALL AREAS AS SHOWN OR SO INDICATED ON SAID PLAT.
SIGNED _____

SURVEYORS CERTIFICATION

I, DAVID LEE WHEELER, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY PERSONNEL UNDER MY SUPERVISION (OR DESCRIPTION RECORDED IN BOUNDARIES NOT SHOWN) ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND ON RECORDS OF THE PUBLIC WORKS DEPARTMENT OF GREENVILLE, NORTH CAROLINA, AND THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.
I, FURTHER CERTIFY THAT I AM A LICENSED SURVEYOR IN THE STATE OF NORTH CAROLINA AND THAT I AM A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND AND THAT I AM AN INDIVIDUAL SIGNATURE AND SEAL THIS _____, 2019.
SIGNED _____ PROFESSIONAL LAND SURVEYOR, No. 13856

REVIEW OFFICERS CERTIFICATE

1. OFFICER OF FULTON COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
SIGNED _____ DATE _____

RESOLUTION NO.
COMMISSION RESOLUTION AUTHORIZING THE SALE OF PROPERTY TO CITY
COUNCIL PURSUANT TO N.C. GEN. STAT. § 160A-274

WHEREAS, by a deed dated July 18, 2012, the Redevelopment Commission ("Commission") acquired 2 lots near the intersection of Evans Street and E. 5th Street, being parcel numbers 14486 (421 Evans St.), and 51695 (423 Evans St.) (hereafter 'property');

WHEREAS, the applicable redevelopment plan does not address the disposition of the above property;

WHEREAS, the City administration plans to seek to utilize the property to create economic development opportunities and/or other public purposes;

WHEREAS, North Carolina General Statute §160A-274(a) defines a governmental unit as a City or Commission, and G.S. 160A-274(b) provides that [a]ny governmental unit may, upon such terms and conditions as it deems wise, with or without consideration sell to any other governmental unit any interest in real property;

WHEREAS, Commission recommends the above referenced property be conveyed to the City of Greenville --subject to the City Council's approval; and

NOW, THEREFORE, BE IT RESOLVED by the Redevelopment Commission of the City of Greenville as follows:

- 1) That it offers the above property to the City of Greenville for \$1.00.
- 2) That the property to be conveyed is described as follows:

Being the property located in the City of Greenville, North Carolina, consisting of approximately .19 acres located near the intersection of Evans Street and E. Fifth Street, and being Tax Parcels #14486 and 51695.

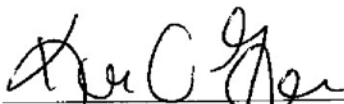
- 3) That the offer is subject to the approval of the City Council of the City of Greenville. It is in the sole discretion of the City Council on whether or not to accept the offer.

This 7th day of May, 2019.



Chair, Redevelopment Commission

ATTEST:



Carol L. Barwick, City Clerk
REN A. GRADIS

1107928