

10.03 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Project Manager 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 Project Manager 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. Project Manager's Engineer's Decision Required: All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Project Manager Engineer for decision. A decision by Project Manager 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 Project Manager 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 Project Manager Engineer and the other party to the Contract within 60 days after the start of such event (unless Project Manager 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 Project Manager Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Project Manager Engineer allows additional time).

- C. Project Manager's Engineer's Action: Project Manager 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 Project Manager's Engineer's sole discretion, it would be inappropriate for the Project Manager Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Project Manager Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.
- E. Project Manager's 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 Project Manager 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 Project Manager 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 Project Manager 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 Project Manager 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 Project Manager 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 Project Manager 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 Project Manager 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 therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.
- B. If Owner, Project Manager 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, Project Manager, 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 Project Manager ~~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, Project Manager and 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 Project Manager ~~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 Project Manager 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 Project Manager's 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 Project Manager 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 Project Manager Engineer, Contractor shall, if requested by Project Manager 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 Project Manager Engineer timely notice of Contractor's intention to cover the same and Project Manager 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 Project Manager Engineer, it must, if requested by Project Manager Engineer, be uncovered for Project Manager's Engineer's observation and replaced at Contractor's expense.
- B. If Project Manager Engineer considers it necessary or advisable that covered Work be observed by Project Manager Engineer or inspected or tested by others, Contractor, at Project Manager's Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Project Manager 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 therefor 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 therefor 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 Project Manager 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 therefrom.
- 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 therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- 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 Project Manager's Engineer's recommendation of final payment, Project Manager 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 Project Manager 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 Project Manager's Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.09 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Project Manager Engineer to correct defective Work, or to remove and replace rejected Work as required by Project Manager 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 Project Manager Engineer and Project Manager's 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 therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- 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 Project Manager 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 Project Manager 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. Project Manager 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 Project Manager's Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Project Manager's Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Project Manager Engineer to Owner, based on Project Manager's Engineer's observations of the executed Work as an experienced and qualified design professional, and on Project Manager's Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Project Manager's 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 Project Manager's Engineer's responsibility to observe the Work.
3. By recommending any such payment Project Manager 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 Project Manager 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 Project Manager's Engineer's review of Contractor's Work for the purposes of recommending payments nor Project Manager's Engineer's recommendation of any payment, including final payment, will impose responsibility on Project Manager 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. Project Manager Engineer may refuse to recommend the whole or any part of any payment if, in Project Manager's 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 Project Manager's 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. Project Manager 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 Project Manager's 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 Project Manager 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 Project Manager Engineer, Owner will give Contractor immediate written notice (with a copy to Project Manager 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 Project Manager Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Project Manager Engineer issue a certificate of Substantial Completion.
- B. Promptly after Contractor's notification, Owner, Contractor, and Project Manager Engineer shall make an inspection of the Work to determine the status of completion. If Project Manager Engineer does not consider the Work substantially complete, Project Manager Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Project Manager Engineer considers the Work substantially complete, Project Manager 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 Project Manager Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Project Manager Engineer concludes that the Work is not substantially complete, Project Manager 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, Project Manager Engineer considers the Work substantially complete, Project Manager 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 Project Manager Engineer believes justified after consideration of any objections from Owner.

- D. At the time of delivery of the tentative certificate of Substantial Completion, Project Manager 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 Project Manager Engineer in writing prior to Project Manager's Engineer's issuing the definitive certificate of Substantial Completion, Project Manager's 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, Project Manager 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 Project Manager 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 Project Manager Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Project Manager 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 Project Manager Engineer shall make an inspection of that part of the Work to determine its status of

completion. If Project Manager Engineer does not consider that part of the Work to be substantially complete, Project Manager Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Project Manager 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, Project Manager 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 Project Manager 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. *Project Manager's ~~Engineer's~~ Review of Application and Acceptance:*

1. If, on the basis of Project Manager's ~~Engineer's~~ observation of the Work during construction and final inspection, and Project Manager's ~~Engineer's~~ review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Project Manager ~~Engineer~~ is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Project Manager ~~Engineer~~ will, within ten days after receipt of the final Application for Payment, indicate in writing Project Manager's ~~Engineer's~~ recommendation of payment and present the Application for Payment to Owner for payment. At the same time Project Manager ~~Engineer~~ will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Project Manager ~~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 Project Manager ~~Engineer~~, less any sum Owner is entitled to set off against Project Manager's ~~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 Project Manager ~~Engineer~~ so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Project Manager ~~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 Project Manager ~~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 Project Manager 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 Project Manager 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 Project Manager Engineer as to their reasonableness and, when so approved by Project Manager 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 Project Manager 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) Project Manager 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 Project Manager Engineer, and provided Owner or Project Manager 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.

**SUGGESTED FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)
MODIFIED AS INDICATED BY SANTA FE COUNTY**

THIS AGREEMENT is by and between Santa Fe County (“Owner”) and
Albuquerque Asphalt, Inc., a New Mexico corporation, whose principle mailing address is
P.O. Box 66450, Albuquerque, New Mexico 87193-6450 (“Contractor”).

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: Road construction, milling and overlay, construction/installation of drainage structures, water crossings, turning and bike lanes w-beams and end treatments, modifications to existing drive-ways, road striping and permanent signage.

ARTICLE 2 – THE PROJECT

- 2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows: The Owner’s project consists of improvements to approximately 3.69 miles of Caja del Rio Road in Santa Fe, New Mexico. The Project location begins approximately .26 miles south of the intersection of Caja del Rio Road and Las Campanas Drive and ends at the cattle guard before the intersection of Caja del Rio Road and the Frontage Road of NM 599.
- 2.02 For planning purposes, the Project has been designated into two sections. Section One refers to the northern portion of the Project beginning approximately 0.26 mile south of the intersection of Caja del Rio Road and Las Campanas Drive and ending approximately 380 feet north of the intersection of Caja del Rio Road and Wildlife Way Road. Section Two refers to the southern portion of the Project beginning approximately 380 feet north of the intersection of Caja del Rio Road and Wildlife Way Road and ending at the cattle guard before the intersection of Caja del Rio Road and the Frontage Road of NM 599.

ARTICLE 3 – ENGINEER AND PROJECT MANAGER

- 3.01 The Project has been designed by Bohannon Huston, Inc., 7500 Jefferson Street, NE, Albuquerque, New Mexico, 87109, which is to ~~act as Owner’s representative,~~ assume all duties, ~~and responsibilities,~~ and have the rights and authority assigned to Engineer in these Contract Documents and the contract between Owner and Engineer (2011-0220-PW/MS) in connection with the completion of the Work. ~~in accordance with the Contract Documents.~~ During this

construction phase of this Project Owner will secure the service of a Project Manager or Project Representative who will serve as the Owner's representative during construction. Engineer will assist Owner's Project Manager as provided in this Agreement and in conformity with the agreements between Owner and Engineer and Owner and Project Manager.

- 3.02 The construction of road improvements shall be completed in accordance with the Engineer's Design and Drawings, road construction requirements of the NMDOT Standard Specifications for Construction of Highways and Bridges, 2007 Ed., and consistent with any requirements specified in Exhibits C, D, F and G of this Agreement.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

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

4.02 *Days to Achieve Substantial Completion and Final Payment*

- A. The Work: i) will be substantially completed within one hundred and eighty (180) Working Days after the date indicated in the Notice to Proceed issued by the Owner and when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and ii) shall be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within thirty (30) Working Days after the date of Substantial Completion as specified on the Certificate of Substantial Completion issued by the Project Manager when the Contract Times commence to run.

4.03 *Liquidated Damages*

- A. Contractor and Owner ~~agree recognize~~ that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal ~~or arbitration~~ proceeding the actual loss suffered by Owner if the Work is not completed on time. The parties agree that the liquidated damages provided herein represent the Owner's probable damages, not a penalty. 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 \$3,500.00 for each Working Day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$3,500.00 for each Working Day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

B. Contractor agrees that the liquidated damages herein provided are reasonable and represent the amount of damages reasonably anticipated to the Owner in the event the Work is not completed as provided in Paragraph 4.02.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

A. For all Work ~~other than Unit Price Work~~, a lump sum of: \$ 3,564,235.85

All specific cash allowances are included in the above price in accordance with Paragraph 11.02 of the General Conditions.

B. 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 actual quantity of that item:

<u>Item No.</u>	<u>Description</u>	<u>UNIT PRICE WORK</u>			<u>Bid Price</u>
		<u>Unit</u>	<u>Estimated Quantity</u>	<u>Bid Unit Price</u>	

Total of all Bid Prices (Unit Price Work) \$ _____

~~The Bid prices for Unit Price Work set forth as of the Effective Date of the Agreement are based on estimated quantities. As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by the Project Manager Engineer as provided in Paragraph 9.07 of the General Conditions.~~

C. For all Work, at the prices stated in Contractor's Bid, attached hereto as EXHIBIT A, an exhibit.—Base Bid #1: \$3,325,610.81 exclusive of grt; Additive Alternate #1: \$238,625.04 exclusive of grt. **TOTAL \$ 3,564,235.85 exclusive of grt.**

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

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

6.02 The NM Public Works Minimum Wage Act requires Contractor and all tiers of subcontractors to submit certified weekly payroll records to the County and the County's Project Representative (Louis Berger Group) biweekly Contractor shall, and Contractor shall require all tiers of subcontractors to, submit certified weekly payroll records to the County and the County's Project Representative for this project. The certified weekly payroll records shall be submitted to Chuck Vigil, Public Works Roads Project Manager at Santa Fe Public Works Department, P.O. Box 276, Santa Fe, NM 87504-0276 and Richard Rotto, PE, Louis Berger Group, 2019 Galisteo Street, Suite M-1, Santa Fe, New Mexico 87505.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments, subject to Owner's withholding of liquidated damages in accordance with Article 4.03 of the Contract and 14.02 of the General Conditions, on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work. ~~as provided in Paragraph 6.02.A.1 below.~~ All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
- ~~1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions:~~
- ~~a. _____ percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and~~
- ~~b. _____ percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).~~
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor for to _____ percent of the Work completed, less liquidated damages and such amounts as the Project Manager Engineer shall determine in accordance with Paragraph

14.02.B.5 of the General Conditions and less the percent Project Manager's Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed (i.e. value of items on the punch list) or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price, subject to liquidated damages if applicable, as recommended by the Project Manager Engineer as provided in said Paragraph 14.07.

ARTICLE 7 – INTEREST

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of one and one half (1.5%) percent per month, annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph SC-4.06 of the Supplementary Conditions as containing reliable "technical data."
 - E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by

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

- F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. 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.
- H. Contractor has given Engineer and Project Manager written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by the Project Manager Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

A. The Contract Documents consist of the following:

1. This Agreement. (~~pages 1 to _____, inclusive~~).
2. Performance Bond for 100% of Contract Sum. (pages _____ to _____, inclusive).
3. Payment Bond for 100% of Contract Sum. (pages _____ to _____, inclusive).
4. Other bonds (pages _____ to _____, inclusive).
 - a. _____ (pages _____ to _____, inclusive).
 - b. _____ (pages _____ to _____, inclusive).
 - e. _____ (pages _____ to _____, inclusive).
5. General Conditions (pages _____ to _____, inclusive).
6. Santa Fe County's Supplementary Conditions. (pages _____ to _____, inclusive).
7. Specifications as listed in the table of contents of the Project Manual.
8. Drawings consisting of _____ sheets with each sheet bearing the following general title: Caja Del Rio Roadway Improvements. [~~or~~] ~~the Drawings listed on attached sheet index~~.

9. Addenda (numbers _____ to _____, inclusive).
10. Exhibits to this Agreement (enumerated as follows):
- a. EXHIBIT A - Contractor's Bid (Bid sheets or statement of services and contract sum/compensation) (pages _____) to _____, inclusive).
 - b. EXHIBIT B - Documentation submitted by Contractor prior to Notice of Award (insurance certificate, bonds, etc). (pages _____ to _____, inclusive).
 - c. EXHIBIT C - Engineer's Design and Drawings for Caja Del Rio Roadway Improvements dated December 2011 (Sheet Nos. 1 through 3B and 5-7 through 41-57).
 - d. EXHIBIT D -- Notices to Contractors -- Red Lines Shall be Kept Current Through the Duration of Project, 12/21/11; Base Course and Hot Mix Asphalt, 3/21/12; Culvert Pipe Length Requirements, 12/21/11; Traffic Control Management, 1/12/12; Waterline Installation, 4/18/12; an 404 Nationwide Permit and 401 Water Quality Certification, 1/12/12.
 - e. EXHIBIT E -- Correspondence from U.S. Army Corps of Engineers regarding SPA-2011-00321 for Caja Del Rio Improvements Project, 1/12/12 and 4/16/12.
 - f. EXHIBIT F - NMDOT Standard Specifications for Construction of Highways and Bridges, 2007 Ed., (Not Attached), and NM Pavement Drop-Off for Maintenance and Construction Work Zones, 10/01/05.
 - g. EXHIBIT G - NMDOT Minimum Testing Requirements.
 - h. EXHIBIT H - A Cultural Resources Survey of Caja Del Rio Road, Santa Fe County, NM, prepared by SWCA Environmental Consultants, dated January 23, 2012.
 - i. EXHIBIT I - Geotechnical Engineering Report prepared by Terracon Consultants, Inc., dated October 20, 2011.
 - j. EXHIBIT J - Control Surveying Report for Buckman Direct Diversion Project, prepared by Bohannon Huston, dated April 20, 2008.
 - k. EXHIBIT K - Biological Evaluation for Caja Del Rio Road Improvements, Santa Fe County, NM, prepared by SWCA Environmental Consultants, dated January 2012.
 - l. EXHIBIT L -- NMDOL Wage Rate Determination.
11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
- a. Notice to Proceed. (pages _____ to _____, inclusive).

- b. Work Change Directives.
- c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above as “Not Attached”).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

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

10.02 *No Assignment of Contract*

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

10.03 *Successors and Assigns*

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

10.04 *Severability*

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

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

2. *Insert other provisions here if applicable.*

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on the last date of signature by the parties (which is the Effective Date of the Agreement).

OWNER:

Santa Fe County

By: Liz Stefanics

Chair, Santa Fe Board of County
Title: Commissioners

Attest: _____

Title: _____

Address for giving notices:
102 Grant Avenue, Santa Fe, NM 87504-0276

P.O. Box 276, Santa Fe, NM 87504-0276

Approved as to form


Stephen C. Ross 7/13/12
Date

Santa Fe County Attorney

SC Ross 7/18/12

CONTRACTOR

Albuquerque Asphalt, Inc.

By: Robert B. Wood

Title: President

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

Attest: 

Title: President

Address for giving notices:
P.O. Box 66450

Albuquerque, New Mexico 87193-6450

License No.: 18484

(Where applicable)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

Agent for service of process:

**SANTA FE COUNTY'S SUPPLEMENTARY CONDITIONS
TO GENERAL TERMS AND CONDITIONS OF
CONSTRUCTION CONTRACT**

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (EJCDC-700 2007 Ed.) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

A. Order of Preference of Documents, Resolving Discrepancies and Conflicts.

- (1) With respect to matters pertaining to contract management and administration procedures including change orders, the provisions of Contract 2012-0143-PW/MS, Standard General Conditions of the Construction Contract (as modified by Santa Fe County), and these Supplementary Conditions shall govern. In conflicts or discrepancies between these documents, the most restrictive, specific and otherwise most beneficial to the County shall take precedence.
- (2) With respect to matters pertaining to specifications for construction of the Work, including technical requirements and specifications of construction, quality of materials, construction standards and testing the Engineer's Plans and Drawings shall govern. In the case of a conflict or discrepancy between the Engineer's Plans and Drawings and the applicable provision of the NMDOT Standard Specifications for Construction of Highways and Bridges, 2007 Ed., the most restrictive and otherwise most beneficial to the County shall take precedence.

Under no circumstances is a change order that changes the Contract Time or Contract Sum valid and binding until approved by the Santa Fe County Manager or the Santa Fe County Board of County Commissioners.

B. The terms used in these Supplementary Conditions have the meanings stated in Article 1 of the General Conditions. Additional terms used in these Supplemental Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

1.02.C. *Day* is deleted in its entirety and replaced with:

C. *Day* :

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight. "Working day" means every day except Saturday, Sunday and holidays recognized by Santa Fe County. Based on a review of weather, or other forces that may adversely affect the Contractor's ability to effectively prosecute the Work, and the actual Work performed by the Contractor, the Project Manager will determine (between the end of the day and noon of the next day) if the Owner will charge a Working Day. If the Contractor was able to effectively prosecute Work on a critical path item for six (6) or more

hours on a Saturday, Sunday or County-recognized Holiday, with the prior written consent and approval of the Owner the Project Manager may charge a Working Day.

1.02.D *Defective* is supplemented by inserting the following as 1.02.D.1.d:

- d. Or, that fails to meet, conform or violates to any specific environmental, cultural, archaeological, or biological requirement or specified procedure required of the Contractor to protect or prevent damage to protected species, cultural properties or environmental protection requirements such as but not limited to the western burrowing owl, protected cultural properties, environmental protection requirements and SWIPP compliance.

2.03.A is amended by deleting the phrase “on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given,”

2.04 *Starting the Work*

Contractor shall start to perform the Work on the date indicated in the Notice to Proceed issued by the Owner.

2.05.A.1 is amended by inserting the word “baseline” before the word “preliminary.”

2.07.A.1 *Progress Schedule*: The Progress Schedule required to be submitted by the Contractor shall include the Contractor’s preparation and completion of thorough and accurate “As-Built” or “Red Lines” to be submitted no later than Contractor’s submission to the Project Manager of the Application for Final Payment as provided in 14.07.

4.03.C.1. *Possible Price and Times Adjustments*

The word “will” is replaced with “may.”

4.04.B.2. is deleted in its entirety and replaced with:

2. If Project Manager and/or Engineer conclude that a change in the Contract Documents is required, a Work Change Directive or a Change Order may be issued to reflect and document such consequences. An equitable adjustment may be made in the Contract Sum 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. The allowance for the combined overhead (general administration overhead, supervision, project insurance, submittal preparation and processing) and profit included in the total cost of Change Orders and Change Directives to the Owner shall be based on and limited to the percentages on the following schedule:

<u>Entity Performing Work</u>	<u>Value of Work to be performed</u>	
	\$0- \$5,000.00	\$5,000.00 or more
Contractor for work performed by own forces	15%	12%
Contractor for work performed by subcontractor	5%	3%
Subcontractor for work performed by own forces	10%	7%
Subcontractor for work performed by sub-subcontractor	5%	3%

4.06.G. Is deleted in its entirety.

5.04 Contractor's Liability Insurance

Delete Paragraph 5.04.A through B are deleted in their entirety and replaced with the following:

5.04.A. 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;
8. claims involving contractual liability insurance applicable to the Contractor's obligations under 6.20 of this Agreement, and
9. Builder's Risk insurance for the full value of the Construction Contract.

5.04.B. The insurance required by Paragraph 5.04.A shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater.

Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

5.04.C. The limits for Workers' Compensation and Employer's Liability insurance shall be as follows:

1. Workers' Compensation:
 - a. State: Statutory
 - b. Applicable Federal (e.g. Longshoremen's): Statutory
2. Employer's Liability:
 - \$500,000 per Accident
 - \$500,000 Disease, Policy Limit
 - \$500,000 Disease, Each Employee

5.04.D. The limits for Commercial General Liability Policy, including coverage for Premises-Operations, Independent Contractors' Protective, Products-Completed Operations, Contractual Liability, Personal Injury and Broad Form Property Damage (including coverage for Explosion, Collapse and Underground hazards) shall be as follows:

- i. \$1,050,000 Each Occurrence
- ii. \$2,100,000 General Aggregate
- iii. \$2,100,000 Personal and Advertising Injury
- iv. \$2,100,000 Products-Completed Operations Aggregate

1. The policy shall be endorsed to have the General Aggregate apply to this Project only.
2. The Contractual Liability insurance shall include coverage sufficient to meet the obligations in Paragraph 6.20.
3. Products Completed Operations insurance shall be maintained for a minimum period of at least one year after final payment.

5.04.E. Automobile Liability insurance (owned, non-owned and hired vehicles) for bodily injury and property damage shall be \$2,000,000, Each Accident

5.04.F. 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 5.04.A through E shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner. If any of the foregoing insurance coverages 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 Paragraph 14.07. 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.

5.05 Owner's Liability Insurance

Delete 5.05.A. in its entirety and replace it with the following:

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

5.06 Property Insurance

5.06.A.1 through A.7, 5.06.B, 5.06.C, 5.06.D and 5.06.E are deleted in their entirety and replaced with:

5.06 Property Insurance

A. Owner shall be responsible for purchasing and maintaining the Owner's usual property insurance as is typically required for this type of construction project. Owner's insurance shall protect only the interests of Owner in the Project.

5.07 Waiver of Rights

5.07.A, 5.07.B, and 5.07.C are deleted in their entirety and replaced with:

A. Contractor waives all rights against Owner, Owner's officers, employees, agents and consultants for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by Contractor's insurance policies required by 5.04, except such rights as Contractor may have to proceeds of such insurance held by the Owner as fiduciary.

5.08 Receipt and Application of Insurance Proceeds

Delete the second sentence of 5.08A. in its entirety and replace it with: Owner shall distribute any money so received in accordance with such agreement as the parties in interest may reach.

5.09. Acceptance of Bonds and Insurance; Option to Replace

5.09.A. Delete the fourth sentence in its entirety and replace it with:

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 may be issued to adjust the Contract Price accordingly.

6.02.B is deleted in its entirety and replace with the following:

B. Except as otherwise required for the safety or protection of person 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. Unless pre-approved in writing by the Owner to the Project Manager, Contractor will not permit the performance of Work on a Saturday, Sunday or any holiday recognized by Santa Fe County.

6.06.G is deleted in its entirety and replace with the following:

- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate written 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. Any contract between Contractor and a Subcontractor or Supplier shall provide that any remedy or claim for nonpayment of sums due or owing to Subcontractor or Supplier or services performed or materials provided is against Contractor and not Owner, subject to any remedy or rights Subcontractor or Supplier may have under the terms of the Contractor's Performance Bond and Section 13-4-19 NMSA 1978, the New Mexico Little Miller Act.

6.07.B is deleted in its entirety.

6.08 *Permits* is supplemented by inserting at the end of the first sentence the phrase "including obtaining and paying for any necessary temporary work permits to perform the Work outside or beyond the limits of any right-of-way."

6.12 Record Documents

6.12.A is supplemented by adding the following sentence: Record documents shall include final and accurate "As-Built" or "Red Lines" acceptable to Project Manager and Owner.

6.19.A is supplemented by deleting the sentence "Engineer and its officers, director, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee."

6.20.C is supplemented by inserting a subparagraph 3 that reads:

3. or to the extent that the liability, damages, losses or costs are caused by, or arise out of, the acts or omissions of the Contractor or its officers, employees, or agents.

7.02 *Coordination* is supplemented by adding the following as subparagraph 7.02.C, D and E:

- C. The Contractor will coordinate the Work with the Owner's Project Manager as provided in this Agreement. The Owner's Project will be managed and inspected by the Project Manager who will act as Owner's representative on the Site and have the construction and contract administration duties as provided in this Agreement. The duties and obligations of the Project Manager are also as stated in Agreement No. 2012-0152-PW/TRV between the Owner and the Project Representative or Project Manager.
- D. The Project Manager will determine the days that will be charged by the Owner as a working day based on the Project Manager's review of the weather and actual work performed by the Contractor. The Project Manager's determination of a working day will be made between the end of a day and noon of the next day. A working day will be charged if the Contractor was able to perform on a critical path item for six (6) or more hours on a Saturday, Sunday or holiday recognized by Santa Fe County.

D. The Engineer identified in this Agreement will have oversight of the Project design documents and specifications and will complete the record documents, including the final "as built" for the Project. The duties and obligations of the Engineer are as stated in this Agreement and Agreement No. 2011-0220-PW/MS between the Owner and the Engineer.

9.01 is supplemented by adding the following as 9.01.B:

B. Engineer will complete the record documents including the final "As-Built" for the Project. Engineer's duties during the construction phase of this Project are as stated in Agreement No. 2011-0220-PW/MS between the Owner and Engineer.

9.03 Project Representative

9.03A is deleted in its entirety.

10.01. Authorized Changes in the Work

Amend 10.01 by adding the following provision as 10.01.C:

C. The allowance for the combined overhead (general administration, overhead, supervision, project insurance, submittal preparation and processing) and profit included in the total cost of Change Orders or Work Change Directives to the Owner shall be based on and limited to the percentages on the following schedule:

<u>Entity Performing Work</u>	<u>Value of Work to be performed</u>	
	\$0- \$5,000.00	\$5,000.00 or more
Contractor for work performed by own forces	15%	12%
Contractor for work performed by subcontractor	5%	3%
Subcontractor for work performed by own forces	10%	7%
Subcontractor for work performed by sub-subcontractor	5%	3%

11.02. Allowances

11.02.B and D: *Cash Allowances* These provisions are inapplicable to this project because Owner has not included or provided for any cash allowances for this project.

12.01.C.1 and 2.a. through 2.f. are deleted in their entirety and replaced with:

12.01.C. *Contractor's Fee*: Any fees for overhead and profit, including the Contractor's, shall be determined according to the schedule in 10.01.C.

13.06 *Correction or Removal of Defective Work* is supplemented by inserting the following as subparagraph C:

C. If Contractor's defective Work results in a monetary fine or penalty assessed against the Owner by a state or federal governing agency or authority having jurisdiction to assess a fine or penalty, the amount of such fine or penalty shall be passed on to the Contractor. Contractor shall pay the fine or penalty within the time required by the

governing agency or authority that assessed the fine and Owner shall be entitled to a decrease in the Contract Price in an amount equal to the fine or penalty. Owner and Project Manager shall immediately notify Contractor in writing of such defective Work, the amount of the fine or penalty assessed and the deadline by which Contractor must pay the fine or penalty.

13.07 Correction Period is supplemented by adding the following as subparagraph 13.07.F:

F. The Project Manager may determine beginning and end of a warranty period that is longer than the period of time of one (1) year established in 13.07.A above. The Project Manager shall formally submit a letter so notifying the Contractor and Owner of such warranty period.

14.02.C.1. Payment Becomes Due:

Delete the reference to "Ten" and replace it with "Thirty."

14.04.C is amended by deleting the reference to "14" in the fourth sentence and replace it with "10." Delete the reference to "14" in the fifth sentence and replace it with "10."

14.07.C Payment Becomes Due is supplemented by inserting the phrase "and any fee or penalty assessed against the County as provided at 13.06.C." after the words "liquidated damages".

15.04.A.(iii) Delete the reference to "30" and replace it with "60."

15.04.B. Delete the first sentence in its entirety and replace it with:

In lieu of terminating the Contract and without prejudice to any other right or remedy, if Project Manager fails to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 60 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Project Manager, stop the Work until payment is made of all such amounts due Contractor, including interest thereon.

Article 16 – DISPUTE RESOLUTION

16.01 Methods and Procedures: 16.01.A through C.1 – 3 are deleted in their entirety and replaced with:

16.01 Method and Procedures

A. Either Owner or Contractor may request mediation pursuant to the New Mexico Public Works Mediation Act, 13-4C-1 NMSA 1978, of any Claim submitted to Project Manager for a decision under Paragraph 10.05 before such decision become final and binding. The request for

mediation shall be submitted in writing to the other party. 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 completed within 60 days of filing of the request. The mediation shall be governed by the rules for mediation pursuant to the Public Works Mediation Act.

C. If the dispute is not resolved by mediation, the dispute shall be resolved through litigation in the district court. The parties agree that the exclusive forum for such litigation shall be the State of New Mexico District Court for the First Judicial District at Santa Fe, New Mexico. Contractor irrevocably consents to the jurisdiction of said Court and agrees to accept service of a summons and complaint by mail or commercial courier service in accordance with Rule 1-004(E)(3) NMRA.

Alb. Asphalt

Addendum #1 to IFB #2012-0143-PW/MS

REVISED BID SHEET

BASE BID #1						
Item No.	MMDOT Item No.	Item Description	Unit	Est. Qty	Unit Price	Extension Amount
1	201000	CLEARING AND GRUBBING	LS	1	25,300.00	25,300.00
2	203000	UNCLASSIFIED EXCAVATION	CY	9750	6.38	62,205.00
3	203100	BORROW	CY	3300	14.46	47,718.00
4	203200	SUBEXCAVATION	CY	500	20.65	10,325.00
5	207000	SUBGRADE PREPARATION	SY	12850	1.97	25,314.50
6	302000	PROCESSING, PLACING AND COMPACTING EXISTING PAVEMENT	SY	42270	2.33	98,489.10
7	304000	BASE COURSE	T	16950	12.24	207,468.00
8	304XXX	LEVELING COURSE	T	4400	14.93	65,692.00
9	304XXX	TREATED BASE COURSE TRAIL	SY	330	24.53	8094.90
10	405000	DETOUR PAVEMENT	SY	390	127.82	49,849.80
11	407000	BITUMINOUS MATERIAL FOR TACK COAT	T	28	610.01	17,080.28
12	408100	PRIME COAT MATERIAL	T	93	125.00	11,625.00
13	414115	COLD MILLING 1 1/2" (BITUMIN)	SY	37090	0.87	32,268.30
14	423282	HMA SP III COMPLETE	T	20200	86.42	1,745,684.00
15	511000	STRUCTURAL CONCRETE CLASS A	CY	30	812.58	24,377.40
16	541200	STRUCTURAL STEEL FOR MISC STRUCTURES	LB	1005	4.18	4,200.90
17	570018	18" CULVERT PIPE	LF	78	77.42	6,058.76
18	570048	48" CULVERT PIPE	LF	30	102.53	3,075.90
19	570096	96" CULVERT PIPE	LF	76	287.72	21,866.72
20	570097	96" CULVERT PIPE END SECTION	EA	2	3871.09	7,742.18
21	570150	17"X13"R (NOMINAL) CULVERT PIPE ARCH	LF	272	67.05	18,781.60
22	601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	LS	1	37,000.00	37,000.00
23	602000	RIPRAP CLASS A	CY	60	410.65	24,639.00

RBW
10,325.00

EXHIBIT
A

REVISED BID SHEET

BASE BID #1						
Item No.	NMDOT Item No.	Item Description	Unit	Est. Qty	Unit Price	Extension Amount
24	603100	TEMPORARY SOIL STABILANT	AC	10.4	287.72	2,992.29
25	603220	CHECK DAM TYPE 1	LF	410	1.55	635.50
26	603260	CULVERT PROTECTION	SY	250	3.00	750.00
27	603262	COMPOSTED MULCH SOCK	LF	12450	1.40	17,430.00
28	603280	SWPPP MANAGEMENT	LS	1	1,800.00	1,800.00
29	604001	GEOTEXTILE CLASS 1	SY	80	20.00	1,600.00
30	606000	METAL BARRIER W-BEAM	LF	2062.5	27.60	56,925.00
31	606010	METAL BARRIER THRIE BEAM	LF	125	37.88	4,735.00
32	606050	METAL BARRIER END TREATMENT	EA	15	3,706.81	55,602.15
33	606110	METAL BARRIER END TREATMENT, TYPE B	EA	1	2,817.51	2,817.51
34	606610	TEMPORARY CWB RETAINED BY THE CONTRACTOR	LF	3300	41.54	137,082.00
35	609200	HEADER CURB	LF	30	45.00	1,350.00
36	610030	CATTLE GUARD 30'	EA	2	20,000.00	40,000.00
37	618000	TRAFFIC CONTROL MANAGEMENT	LS	1	107,000.00	107,000.00
38	621000	MOBILIZATION	LS	1	142,211.00	142,211.00
39	623059	MODIFIED MEDIAN DROP INLET TYPE II (VALLEY/URBAN)	EA	1	4,000.00	4,000.00
40	632000	CLASS A SEEDING	AC	8.6	1110.00	9,546.00
41	663550	CAST IRON OR DUCTILE IRON FITTINGS	LBS	766	6.28	4,810.48
42	663728	8" WATERLINE 0'-6' DEPTH	LF	200	32.43	6,486.00
43	663732	12" WATERLINE 0'-6' DEPTH	LF	350	46.03	16,110.50
44	701000	PANEL SIGNS	SF	230	12.29	2,826.70
45	701030	REMOVE AND RESET PANEL SIGN	EA	41	157.00	6,437.00
46	701100	STEEL POST AND BASE POST FOR ALUMINUM PANEL SIGNS	LF	370	8.57	3,076.90
47	702000	CONSTRUCTION SIGNING	SF	850	5.60	4,760.00

REVISED BID SHEET

BASE BID #1						
Item No.	NMDOT Item No.	Item Description	Unit	Est. Qty	Unit Price	Extension Amount
48	702100	POSTS FOR CONSTRUCTION SIGNING	LF	1540	2.80	4312.00
49	702238	BARRICADE TYPE III - 8'	EA	12	139.00	1668.00
50	702320	VERTICAL PANEL, TYPE BACK TO BACK	EA	45	39.00	1755.00
51	702525	CHANNELIZATION DEVICES TYPE DRUM	EA	155	39.00	6045.00
52	702810	PORTABLE CHANGEABLE MESSAGE SIGN	EA	2	6,700.00	13,400.00
53	703004	OBJECT MARKER END OF ROAD	EA	2	78.47	156.94
54	704000	RETROREFLECTORIZED PAINTED MARKINGS	LF	265150	0.09	23,863.50
55	704717	HOT THERMOPLASTIC PAVEMENT MARKING RIGHT ARROW	EA	14	151.00	2114.00
56	704718	HOT THERMOPLASTIC PAVEMENT MARKING LEFT ARROW	EA	22	151.00	3322.00
57	704720	HOT THERMOPLASTIC PAVEMENT MARKING WORD (ONLY)	EA	18	163.00	2934.00
58	704731	HOT THERMOPLASTIC PAVEMENT MARKING LANE SYMBOL (BIKEWAY)	EA	20	105.00	2100.00
59	704732	HOT THERMOPLASTIC PAVEMENT MARKING BIKE SYMBOL (BIKEWAY)	EA	20	105.00	2100.00
60	720060	VEHICULAR IMPACT ATTENUATOR UNIT - WORK ZONES	EA	18	1,000.00	18,000.00
61	801000	CONSTRUCTION STAKING BY THE CONTRACTOR	LS	1	26,000.00	26,000.00
62	901XXX	MATERIALS TESTING	LS	1	32,000.00	32,000.00
TOTAL BASE BID #1 AMOUNT						3,325,610.81

TOTAL BASE BID #1 AMOUNT (WRITTEN IN WORDS):

THREE MILLION THREE HUNDRED TWENTY FIVE
 THOUSAND SIX HUNDRED TEN & 81/100 DOLLARS.

REVISED BID SHEET

ADDITIVE ALTERNATE #1 (11' TO 12' WIDE DRIVING LANES)						
Item No.	MMDOT Item No.	Item Description	Unit	Est. Qty	Unit Price	Extension Amount
1	201000	CLEAR AND GRUBBING	LS	1	2010.01	2010.01
2	203000	UNCLASSIFIED EXCAVATION	CY	3500	6.28	22,330.00
3	203100	BORROW	CY	500	14.46	7,230.00
4	207000	SUBGRADE PREPARATION	SY	4900	1.97	9,653.00
5	304000	BASE COURSE	T	2150	12.24	26,314.00
6	407000	BITUMINOUS MATERIAL FOR TACK COAT	T	2	610.01	1,220.02
7	408100	PRIME COAT MATERIAL	T	10	125.00	1,250.00
8	423282	HMA SP III COMPLETE	T	1900	86.42	164,198.00
9	618000	TRAFFIC CONTROL MANAGEMENT	LS	1	1186.65	1,186.65
10	801000	CONSTRUCTION STAKING BY THE CONTRACTOR	LS	1	1115.55	1,115.55
11	901XXX	MATERIALS TESTING	LS	1	2115.81	2,115.81
ADDITIVE ALTERNATE #1 AMOUNT						238,625.04

ADDITIVE ALTERNATE #1 AMOUNT (WRITTEN IN WORDS):

TWO HUNDRED THIRTY EIGHT THOUSAND SIX HUNDRED
TWENTY FIVE AND 04/100 DOLLARS.

REVISED BID SHEET**BASE BID #2 - SECTION ONE - NORTHERN SEGMENT (REHABILITATION)**

Item No.	NMDOT Item No.	Item Description	Unit	Est. Qty	Unit Price	Extension Amount
1	201000	CLEARING AND GRUBBING	LS	1	9251.09	9251.09
2	203000	UNCLASSIFIED EXCAVATION	CY	1700	6.38	10,846.00
3	203100	BORROW	CY	500	15.51	7755.00
4	207000	SUBGRADE PREPARATION	SY	3500	2.71	9485.00
5	304000	BASE COURSE	T	1050	17.64	18,522.00
6	304XXX	TREATED BASE COURSE TRAIL	SY	110	36.30	3993.00
7	405000	DETOUR PAVEMENT	SY	390	126.48	49,327.20
8	407000	BITUMINOUS MATERIAL FOR TACK COAT	T	14	610.01	8540.14
9	408100	PRIME COAT MATERIAL	T	6	125.00	750.00
10	414115	COLD MILLING 1 1/2" (BITUMIN)	SY	37090	0.87	32,268.30
11	423282	HMA SP III COMPLETE	T	8150	85.00	692,750.00
12	511000	STRUCTURAL CONCRETE CLASS A	CY	10	918.07	9180.70
13	541200	STRUCTURAL STEEL FOR MISC STRUCTURES	LB	505	4.18	2110.70
14	570018	18" CULVERT PIPE	LF	78	77.42	6038.76
15	570048	48" CULVERT PIPE	LF	30	102.53	3075.90
16	570096	96" CULVERT PIPE	LF	78	287.72	21,866.72
17	570097	96" CULVERT PIPE END SECTION	EA	2	3871.09	7742.18
18	601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	LS	1	10,064.83	10,064.83
19	602000	RIPRAP CLASS A	CY	35	433.25	15,163.75
20	603100	TEMPORARY SOIL STABILANT	AC	0.80	287.71	230.17
21	603220	CHECK DAM TYPE I	LF	50	1.52 RIBW	76.00
22	603260	CULVERT PROTECTION	SY	50	3.09 RIBW	154.50
23	603262	COMPOSED MULCH SOCK	LF	750	1.38	1035.00

REVISED BID SHEET

BASE BID #2 - SECTION ONE - NORTHERN SEGMENT (REHABILITATION)						
Item No.	NMDOT Item No.	Item Description	Unit	Est. Qty	Unit Price	Extension Amount
24	603280	SWPPP MANAGEMENT	LS	1	1862.97	1862.97
25	606000	METAL BARRIER W-BEAM	LF	625	28.20	17,625.00
26	606050	METAL BARRIER END TREATMENT	EA	8	3206.81	22,240.86
27	606810	TEMPORARY CWB RETAINED BY THE CONTRACTOR	LF	1700	15.80	26,860.00
28	618000	TRAFFIC CONTROL MANAGEMENT	LS	1	29,666.14	29,666.14
29	621000	MOBILIZATION	LS	1	49,061.59	49,061.59
30	632000	CLASS A SEEDING	AC	0.60	4359.33	2615.60
31	663550	CAST IRON OR DUCTILE IRON FITTINGS	LBS	212	3.14	665.68
32	663732	12" WATERLINE 0'-8' DEPTH	LF	150	46.03	6704.50
33	701000	PANEL SIGNS	SF	90	12.29	1106.10
34	701030	REMOVE AND RESET PANEL SIGN	EA	2	156.94	313.88
35	701100	STEEL POST AND BASE POST FOR ALUMINUM PANEL SIGNS	LF	80	8.37	669.60
36	702000	CONSTRUCTION SIGNING	SF	310	5.60	1736.00
37	702100	POSTS FOR CONSTRUCTION SIGNING	LF	520	2.80	1456.00
38	702238	BARRICADE TYPE III - 8'	EA	4	39.18	156.72
39	702320	VERTICAL PANEL, TYPE BACK TO BACK	EA	35	39.18	1371.30
40	702525	CHANNELIZATION DEVICES TYPE DRUM	EA	80	29.18	2350.80
41	704000	RETROREFLECTORIZED PAINTED MARKINGS	LF	79250	0.13	10,302.50
42	704717	HOT THERMOPLASTIC PAVEMENT MARKING RIGHT ARROW	EA	8	151.71	1213.68
43	704718	HOT THERMOPLASTIC PAVEMENT MARKING LEFT ARROW	EA	12	151.71	1820.52 ¹²⁸⁰
44	704720	HOT THERMOPLASTIC PAVEMENT MARKING WORD (ONLY)	EA	10	162.17	1621.70
45	704731	HOT THERMOPLASTIC PAVEMENT MARKING LANE SYMBOL (BIKEWAY)	EA	13	104.62	1360.06

REVISED BID SHEET

BASE BID #2 - SECTION ONE - NORTHERN SEGMENT (REHABILITATION)						
Item No.	NMDOT Item No.	Item Description	Unit	Est. Qty	Unit Price	Extension Amount
46	704732	HOT THERMOPLASTIC PAVEMENT MARKING BIKE SYMBOL (BIKEWAY)	EA	13	104.62	1360.06
47	720060	VEHICULAR IMPACT ATTENUATOR UNIT - WORK ZONES	EA	8	1,679.54	13,433.76
48	801000	CONSTRUCTION STAKING BY THE CONTRACTOR	LS	1	8143.54	8143.54
49	901XXX	MATERIALS TESTING	LS	1	17,016.05	17,016.05
BASE BID #2 - SECTION ONE - NORTHERN SEGMENT (REHABILITATION)						1,143,161.75

**BASE BID #2 - SECTION ONE - NORTHERN SEGMENT (REHABILITATION)
(WRITTEN IN WORDS):**

ONE MILLION ONE HUNDRED FORTY THREE
THOUSAND ONE HUNDRED SIXTY ONE & 75/100
DOLLARS.

BASE BID #3 - SECTION TWO - SOUTHERN SECTION (FULL CONSTRUCTION)						
Item No.	NMDOT Item No.	Item Description	Unit	Est. Qty	Unit Price	Extension Amount
1	201000	CLEARING AND GRUBBING	LS	1	21,141.72	21,141.72
2	203000	UNCLASSIFIED EXCAVATION	CY	8050	6.38	51,359.00
3	203100	BORROW	CY	2800	14.46	40,488.00
4	203200	SUBEXCAVATION	CY	500	19.04	9,520.00
5	207000	SUBGRADE PREPARATION	SY	9350	2.03	18,990.50
6	302000	PROCESSING, PLACING AND COMPACTING EXISTING PAVEMENT	SY	42270	2.33	98,489.10
7	304000	BASE COURSE	T	15900	12.28	195,252.00

REVISED BID SHEET**BASE BID #3 - SECTION TWO - SOUTHERN SECTION (FULL CONSTRUCTION)**

Item No.	MMDOT Item No.	Item Description	Unit	Est. Qty	Unit Price	Extension Amount
8	304XXX	LEVELING COURSE	T	4400	14.93	65,697.00
9	304XXX	TREATED BASE COURSE TRAIL	SY	220	50.34	11,074.80
10	407000	BITUMINOUS MATERIAL FOR TACK COAT	T	14	610.01	8540.14
11	408100	PRIME COAT MATERIAL	T	87	125.00	10,875.00
12	423282	HMA SP III COMPLETE	T	12050	86.49	1,042,204.50
13	511000	STRUCTURAL CONCRETE CLASS A	CY	20	918.07	18,361.40
14	541200	STRUCTURAL STEEL FOR MISC STRUCTURES	LB	500	4.18	2090.00
15	570150	17"X13"R (NOMINAL) CULVERT PIPE ARCH	LF	272	67.05	18281.60
16	601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	LS	1	7396.92	7396.92
17	602000	RIPRAP CLASS A	CY	25	632.18	15,804.50
18	603100	TEMPORARY SOIL STABILANT	AC	9.6	836.97	8035.10
19	603220	CHECK DAM TYPE I	LF	360	8.37	3013.20
20	603260	CULVERT PROTECTION	SY	200	3.14	628.00
21	603262	COMPOSED MULCH SOCK	LF	11700	1.57	18,369.00
22	603280	SWPPP MANAGEMENT	LS	1	9482.20	9482.20
23	604001	GEOTEXTILE CLASS 1	SY	80	20.76	1660.80
24	606000	METAL BARRIER W-BEAM	LF	1437.5	27.75	39,890.63
25	606010	METAL BARRIER THRIE BEAM	LF	125	37.88	4735.00
26	606050	METAL BARRIER END TREATMENT	EA	9	3706.81	33361.29

REVISED BID SHEET**BASE BID #3 - SECTION TWO - SOUTHERN SECTION (FULL CONSTRUCTION)**

Item No.	NMDOT Item No.	Item Description	Unit	Est. Qty	Unit Price	Extension Amount
27	606110	METAL BARRIER END TREATMENT, TYPE B	EA	1	29 23.30	29 23.30
28	606610	TEMPORARY CWB RETAINED BY THE CONTRACTOR	LF	1600	23.31	37 296.00
29	609200	HEADER CURB	LF	30	44.68	1 346.40
30	610030	CATTLE GUARD - 30 FT	EA	2	19,456.96	39, 913.92
31	618000	TRAFFIC CONTROL MANAGEMENT	LS	1	59,332.27	59,332.27
32	621000	MOBILIZATION	LS	1	87,291.36	87,291.36
33	623059	MODIFIED MEDIAN DROP INLET TYPE II (VALLEY/URBAN)	EA	1	3975.71	3975.71
34	632000	CLASS A SEEDING	AC	8	784.68	6 277.44
35	663550	CAST IRON OR DUCTILE IRON FITTINGS	LBS	554	6.28	3 486.00
36	663728	8" WATERLINE 0'-6" DEPTH	LF	200	32.43	6 486.00
37	663732	12" WATERLINE 0'-6" DEPTH	LF	200	46.03	9 206.00
38	701000	PANEL SIGNS	SF	140	12.29	1 720.60
39	701030	REMOVE AND RESET PANEL SIGN	EA	39	156.94	6 120.66
40	701000	STEEL POST AND BASE POST FOR ALUMINUM PANEL SIGNS	LF	290	8.37	2 427.30
41	702000	CONSTRUCTION SIGNING	SF	540	5.60	3 024.00
42	702100	POSTS FOR CONSTRUCTION SIGNING	LF	1020	2.80	2 856.00
43	702238	BARRICADE TYPE III - 8'	EA	8	139.14	1 119.52
44	702320	VERTICAL PANEL, TYPE BACK TO BACK	EA	10	39.18	391.80
45	702525	CHANNELIZATION DEVICES TYPE DRUM	EA	95	39.18	3 722.10

REVISED BID SHEET

BASE BID #3 - SECTION TWO - SOUTHERN SECTION (FULL CONSTRUCTION)						
Item No.	NMDOT Item No.	Item Description	Unit	Est. Qty	Unit Price	Extension Amount
46	702610	PORTABLE CHANGEABLE MESSAGE SIGN	EA	2	6716.86	13433.72
47	703004	OBJECT MARKER END OF ROAD	EA	2	78.47	156.94
48	704000	RETROREFLECTORIZED PAINTED MARKINGS	LF	185900	0.11	20449.00
49	704717	HOT THERMOPLASTIC PAVEMENT MARKING RIGHT ARROW	EA	6	151.71	910.26
50	704718	HOT THERMOPLASTIC PAVEMENT MARKING LEFT ARROW	EA	10	151.71	1517.10
51	704720	HOT THERMOPLASTIC PAVEMENT MARKING WORD (ONLY)	EA	8	162.17	1297.36
52	704731	HOT THERMOPLASTIC PAVEMENT MARKING LANE SYMBOL (BIKEWAY)	EA	7	1150.86	8056.02
53	704732	HOT THERMOPLASTIC PAVEMENT MARKING BIKE SYMBOL (BIKEWAY)	EA	7	104.62	732.34
54	720060	VEHICULAR IMPACT ATTENUATOR UNIT - WORK ZONES	EA	10	1679.22	16,792.20
55	801000	CONSTRUCTION STAKING BY THE CONTRACTOR	LS	1	17,179.52	17,179.52
55	901XXX	MATERIALS TESTING	LS	1	24,474.56	24,474.56
BASE BID #3 - SECTION TWO - SOUTHERN SECTION (FULL CONSTRUCTION)						2,134,128.92

BASE BID #3 - SECTION TWO - SOUTHERN SECTION (FULL CONSTRUCTION) (WRITTEN IN WORDS):

Two million one hundred thirty four thousand
 one hundred twenty eight & ⁹²/₁₀₀ DOLLARS.

REVISED BID SHEET

ADDITIVE ALTERNATE # 2-NORTHERN PORTION (11' TO 12' WIDE DRIVING LANES)

Item No.	MMDOT Item No.	Item Description	Unit	Est. Qty	Unit Price	Extension Amount
1	201000	CLEARING AND GRUBBING	LS	1	7089.10	7089.10
2	203000	UNCLASSIFIED EXCAVATION	CY	3500	6.38	22,330.00
3	203100	BORROW	CY	500	15.51	7755.00
4	207000	SUBGRADE PREPARATION	SY	2250	2.71	6097.50
5	304000	BASE COURSE	T	750	17.64	13,230.00
6	407000	BITUMINOUS MATERIAL FOR TACK COAT	T	1	610.01	610.01
7	408100	PRIME COAT MATERIAL	T	5	125.00	625.00
8	423282	HMA SP III COMPLETE	T	850	85.00	72,250.00
9	618000	TRAFFIC CONTROL MANAGEMENT	LS	1	1186.65	1186.65
10	801000	CONSTRUCTION STAKING BY THE CONTRACTOR	LS	1	555.82	555.82
11	901XXX	MATERIALS TESTING	LS	1	2939.91	2939.91
TOTAL ADDITIVE ALTERNATE #2 AMOUNT						134,668.99 ^{12.13 W}

TOTAL ADDITIVE ALTERNATE #2 AMOUNT (WRITTEN IN WORDS):

ONE HUNDRED THIRTY FOUR THOUSAND

SIX HUNDRE SIXTY EIGHT & 99/100 DOLLARS.

REVISED BID SHEET

ADDITIVE ALTERNATE #3 - SECTION TWO SOUTHERN PORTION (11' TO 12' WIDE DRIVING LANES)

Item No.	NMDOT Item No.	Item Description	Unit	Est. Qty.	Unit Price	Extension Amount
1	207000	SUBGRADE PREPARATION	SY	2650	2.03	5379.50
2	304000	BASE COURSE	T	1400	12.28	17192.00
3	407000	BITUMINOUS MATERIAL FOR TACK COAT	T	1	610.01	610.01
4	408100	PRIME COAT MATERIAL	T	5	125.00	625.00
5	423282	HMA SP III COMPLETE	T	1050	86.49	90,814.50
6	818000	TRAFFIC CONTROL MANAGEMENT	LS	1	6011.50	6011.50
7	80100	CONSTRUCTION STAKING BY THE CONTRACTOR	LS	1	555.82	555.82
8	901XXX	MATERIALS TESTING	LS	1	2880.58	2880.58
TOTAL ADDITIVE ALTERNATE #3 AMOUNT						124,068.91

TOTAL ADDITIVE ALTERNATE #3 AMOUNT (WRITTEN IN WORDS):

ONE HUNDRED TWENTY FOUR THOUSAND
 SIXTY EIGHT $\frac{1}{8}$ $\frac{91}{100}$ DOLLARS.