

# THOMSON MCDUFFIE DEVELOPMENT AUTHORITY

## PROJECT MANUAL



## STONE INDUSTRIAL PARK PHASE A

*BID #2021-07-01*

**BID OPENING DATE – Thursday, January 20, 2022, 2:00 PM E.T.**

**BID DOCUMENTS PREPARED BY:**



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### **PROJECT MANUAL**

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**THOMSON MCDUFFIE DEVELOPMENT AUTHORITY**

**BID NO. # 2021-07-01  
STONE INDUSTRIAL PARK PHASE A**

**OWNER:** **THOMSON MCDUFFIE DEVELOPMENT AUTHORITY**  
149 Main Street  
Thomson, Georgia 30824

**President/CEO:** Donald S. Powers

**ENGINEER:** **W&A ENGINEERING, INC**  
355 Oneta Street, Ste D100  
Athens, Georgia 30601

**Director of Engineering:** Buck Bacon

**Director of Engineering  
Engineer of Record:** Andrew Whitehead, PE

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REQUEST FOR BID, OVERVIEW AND PROCEDURES

**THOMSON MCDUFFIE DEVELOPMENT AUTHORITY**

**BID #2021-07-01**

**FOR**

**STONE INDUSTRIAL PARK PHASE A**

**OWNER:**

**THOMSON MCDUFFIE DEVELOPMENT AUTHORITY**

149 Main Street

Thomson, Georgia 30824

**ENGINEER:**

**W&A ENGINEERING, INC**

355 Oneta Street, Ste D100

Athens, Georgia 30601

Director of Engineering: Buck Bacon

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**SECTION I – INVITATION FOR BID, OVERVIEW AND PROCEDURES**

**A. PURPOSE**

The THOMSON MCDUFFIE DEVELOPMENT AUTHORITY is soliciting Bids for **STONE INDUSTRIAL PARK PHASE A** from responsible Construction Managers and General Contractor.

**1. SCOPE OF WORK.**

This is a Guaranteed Maximum Price (GMP) contract.

The Project generally consists of the clearing and grubbing of approximately 46 acres, grading and installation of two stormwater management facilities and the installation of required erosion and sediment control measures and other means and methods required for to accomplish the scope of work included in these bid documents.

**2. PROJECT STATUS**

These general descriptions are currently under further development by the THOMSON MCDUFFIE DEVELOPMENT AUTHORITY and could be changed, modified, reduced, or expanded with the release of subsequent addenda.

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REQUEST FOR BID, OVERVIEW AND PROCEDURES

- a. **Survey:** A topographic and boundary survey of the site has been completed.
- b. **Construction Documents:** Construction documents have been developed.
- c. **Existing Utilities:** Existing underground utilities have been located and are shown on the construction documents.
- d. **Right of Way Acquisition:** No right of way or easements are required for the completion of the scope included in this bid.
- e. **Environmental Areas:** Environmental areas are present on the site, have been located and are shown on construction documents.

### 3. PERMITTING STATUS

**Site Plan Approval** – Site Development Plan approval is required by the McDuffie County. The Engineer has submitted Site Development Plans and is currently awaiting approval.

**NPDES Permit** – A National Pollutant Discharge Elimination System (NPDES) Permit, Notice of Intent (NOI) and Notice of Termination (NOT), as issued by the Georgia Department of Natural Resources (DNR) and the Environmental Protection Division (EPD) is required. The Contractor will be responsible for coordinating submittal of the NOI and NOT with the Owner, Construction Manager and Engineer. The Contractor will be responsible for all associated Land Disturbance Permit Fees.

**Land Disturbance Permit** - A Land Disturbance Permit (LDP), issued by McDuffie County is required. The Contractor will be responsible for coordinating final permitting of the Land Disturbance Permit with the Owner and Engineer. The Contractor will be responsible for all associated Land Disturbance Permit Fees.

## B. INFORMATION TO BIDDERS

1. **BID TIME TABLE.** The anticipated schedule for the Bid process is as follows:
 

BID Documents Available .....	<b>12:00 PM E.T., Monday, December 1, 2021</b>
Mandatory Pre-BID Conference .....	<b>10:00 AM E.T., Wednesday, December 15, 2021</b>
Deadline for submission of questions .....	<b>5:00 PM E.T., Wednesday, January 5, 2022</b>
Bids Opening .....	<b>2:00 PM E.T., Thursday, January 20, 2022</b>
Bids Valid Until .....	<b>5:00 PM E.T., Wednesday, April 20, 2022</b>
2. **GENERAL.** The following information is given for the purpose of guiding Bidders in properly preparing their Bids. This information has force and weight with the specifications, and strict compliance is required with all the provisions herein contained. To be considered, Bids must be made in accordance with this information.

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REQUEST FOR BID, OVERVIEW AND PROCEDURES

Bidders are invited to be present at the time of opening of Bids.

The THOMSON MCDUFFIE DEVELOPMENT AUTHORITY reserves the right to reject any or all Bids, to waive any technicalities or irregularities and to award the project based on the highest and best interest of the THOMSON MCDUFFIE DEVELOPMENT AUTHORITY.

**Bid Format**

In addition to all Mandatory/Responsive and Supplementary/Responsible Documents the Bidder is directed to submit a Bid with the following components. Bidders are expected to examine the specifications, price schedule, and all instructions. Failure to do so will be at the Bidder's risk. Each Bidder shall furnish the information required by the solicitation. ***The Bid Schedule must be signed by an officer of the company, who is legally authorized to enter into a contractual relationship in the name of the Bidder.***

- a. **Cover Letter:** A brief cover letter of introduction and interest.
- b. **Table of Contents:** Including all sections and subsections.
- c. **Business Information:** State the full name and address of your organization and the branch office or other subordinate element that will perform the services described in this Bid. Include telephone number, point of contact and official signature of an authorized company representative. Indicate whether you operate as a single proprietorship, partnership, or corporation. Include the state(s) in which you are incorporated and/or licensed to operate.
- d. **Qualifications and Experience:** Include a brief statement concerning the names and experience of the staff to be directly assigned to this contract.
- e. **Contract Compliance and Equipment:** Include a statement of your company's ability to meet all specifications as outlined in these documents. If any you recommend any deviations from these specifications and drawings explain in detail your recommendations and reasoning. Include a list of proposed equipment to be used of this project. Include type of equipment and age of equipment.
- f. **References:** Include a minimum of four (4) references for contracts of similar nature, preferably public sector references. Include the name, address, and telephone number, point of contact and description of the contract for each reference.
- g. **Financial Information and Documentation:** Provide relevant information regarding organizational stability and strength. Documentation may include:
  - i. A statement of organizational structure (e.g., sole proprietorship, partnership, corporation, joint venture, etc.), information regarding the make-up of that structure (e.g., owner, partners, board of directors' joint venture partners, etc.), a listing of financial references.
  - ii. Failure to Complete Prior Projects – disclose whether the Bidder (or any general partner or joint venture of the Bidder) has ever failed to complete a similar project. If so, list the date of commencement of the project and the entity for which the project was to be

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REQUEST FOR BID, OVERVIEW AND PROCEDURES

- performed, and explain why the project was not completed.
- iii. Disclose information and provide explanation regarding any contracts involving the Bidder or joint venture firm within the last three years which exceeded initial program or project budget, exceeded initial schedule, and any contract penalties or damages assessed.
- h. **Photographs** – Provide photographs of completed projects similar in scope.
- i. **Other Relevant Information:** Include any other relevant information concerning the contract in this section

**BID SUBMISSION. ONE (1) PDF SCAN MARKED ORIGINAL AND TWO (2) COPIES** of the complete signed Bid submittal must be received by **2:00 PM E.T., THURSDAY, JANUARY 20, 2022**. Bids must be submitted in a sealed envelope or container stating on the outside, the bidder's name, address, telephone number, the bid number, "**BID 2021-07-01**", and the title, "**STONE INDUSTRIAL PARK PHASE A**" to:

THOMSON MCDUFFIE DEVELOPMENT AUTHORITY  
Attn: Donald S. Powers  
149 Main Street  
Thomson, Georgia 30824

Hand delivered copies may be delivered to the above address only between the hours of 8:00 a.m. and 5:00 p.m. ET, Monday through Friday, excluding federal holidays.

Bidders are responsible for informing any commercial delivery service, if used, of all delivery requirements and for ensuring that the required address information appears on the outer wrapper or envelope used by such service.

The Bid submittal must be signed by a company officer who is legally authorized to enter into a contractual relationship in the name of the Bidder.

3. **DOCUMENTS.** Digital copies of the Bid Documents may be obtained from **W&A Engineering, 355 Oneta Street, Suite D100, Athens, Georgia 30601, by emailing Buck Bacon at [bbacon@waengineering.com](mailto:bbacon@waengineering.com).**

These Bid Documents include this Project Manual, any addendum, and the following documents:

**Phase 1 Environmental Site Assessment** prepared by Thomas & Hutton dated May 2018.

**Cultural Resources Literature Search**, prepared by R.S. Webb & Associates dated January 23, 2020.

**Site Waters Map**, prepared by Corblu Ecology Group titled Figure 6, Site Waters Map, Project No. 02-112118.

**Site Development Plans for Stone Industrial Park Phase A**, prepared by W&A Engineering

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issued on March 4, 2021.

4. **CONTACT PERSON(S).** Bidder's are encouraged to contact only the persons listed below to clarify any part of this Bid.

Buck Bacon, W&A Engineering at (706) 310-0400, or email [bbacon@waengineering.com](mailto:bbacon@waengineering.com) for inquiries regarding construction/technical aspects of this bid.

5. **ADDENDA, QUESTIONS, AND INTERPRETATIONS.** Bidders are encouraged to contact only those persons listed in CONTACT PERSONS. It is requested that all questions that arise concerning the Bid documents or technical aspects of this Bid prior to the Bid opening date be directed to the contact person in writing via facsimile or email. Any unauthorized contact shall not be used as a basis for responding to this bid.

Questions related to this bid should be emailed to the contact persons listed above, with the subject line of "THOMSON MCDUFFIE DEVELOPMENT AUTHORITY – STONE INDUSTRIAL PARK PHASE A" no later than **5:00 PM E.T., Wednesday, January 5, 2022.**

The Thomson McDuffie County Development Authority and W&A Engineering will issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued at least 72 hours prior to the Bid opening date.

Bidder's should not rely on any representations, statements or explanations other than those made in this Bid Document or in any addendum to this Bid Document. Where there appears to be a conflict between the Bid Document and any addenda issued, the last addendum issued will prevail.

**Bidder's must acknowledge any issued addenda. Bids which fail to acknowledge the Bidder's receipt of any addendum will result in the rejection of the Bid if the addendum contains information which substantively changes the Owner's requirements.**

Bidder's who obtain this bid document from [Georgia Procurement Registry](#) or from any source other than W&A Engineering **are cautioned to revisit the [Georgia Procurement Registry](#) site to obtain any addenda which may be issued.** The Thomson McDuffie Development Authority, and/or W&A Engineering assumes no responsibility for the Bidder's failure to acknowledge any addenda issued.

6. **LATE SUBMITTAL, LATE MODIFICATIONS.** Bid submittals received after the Bid opening date and time will not be considered. Modifications received after the Bid opening date will not be considered. The Thomson McDuffie Development Authority, and/or W&A Engineering assumes no responsibility for the premature opening of a Bid not properly addressed and identified, and/or delivered to the proper designation.
7. **BID EVALUATION CRITERIA.** The Thomson McDuffie Development Authority intends to evaluate Bids and award a contract based on the lowest bid among all qualified bidders. Therefore, the Bidder's initial Bid should contain the Bidder's best terms from a price and technical standpoint.
8. **WITHDRAWAL OF BID.** A Bidder may withdraw their Bid before the expiration of the time during which Bids may be submitted without prejudice to the Bidder, by submitting a written request

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REQUEST FOR BID, OVERVIEW AND PROCEDURES

of withdrawal to the Purchasing Officer. No Bid may be withdrawn or modified after the Bid date except where the award of Contract had been delayed **90 days**.

- 9. REJECTION OF BIDS.** The Thomson Mcduffie Development Authority, and/or W&A Engineering may reject any or all Bids and reserves the right to waive any irregularities or informalities in any Bid or in the Bid submittal procedure.

Bid submittals received after said time or at any place other than the time and place as stated in the notice will not be considered.

- 10. UNBALANCED BIDS.** The Thomson Mcduffie Development Authority, and/or W&A Engineering may reject a Bid as non-responsive if the prices are materially unbalanced between line items or sub-line items. A Bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, or if it is so unbalanced as to be tantamount to allowing an advance payment.

- 11. ACCEPTANCE OF BID (AWARD).** It is the intent of the Owner to award a contract to the most qualified and responsible Bidder based on the lowest bid in accordance with the requirements of the Bidder's documents and does not exceed the funds available. The Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's own best interests.

- 12. MINIMUM BID ACCEPTANCE PERIOD.** Bids shall be valid and may not be withdrawn for a period of **90 days** from the date specified for receipt of Bids.

**13. OBLIGATION OF BIDDER- EXAMINATION OF CONTRACT DOCUMENTS AND SITE.**

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

- a. Examine the Contract Documents thoroughly,
- b. Visit the site to become familiar with local conditions that may affect cost, progress, or performance of the Work,
- c. Consider federal, state and local Laws and Regulations that may affect cost, progress, or performance of the Work,
- d. Study and carefully correlate Bidder's observations with the Contract Documents, and
- e. Notify Project Manager of all conflicts, errors or discrepancies in the Contract Documents.

Before submitting Bid, each Bidder will, at Bidder's own expense, make or obtain any additional examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, or performance of the Work and which Bidder deems necessary to determine its Bid for performing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

By submission of a Bid, each Bidder warrants that Bidder has inspected the site and has read and is thoroughly familiar with the Contract Documents (including all Addenda). The failure or omission of any Bidder to examine the site, any form, instrument, or document shall in no way relieve any Bidder from any obligation with respect to the Bid.

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The Contractor will not be given extra payments for conditions that can be determined by examining the site and documents.

- 14. COST INCURRED BY BIDDER.** All expenses involved with the preparation and submission of the Bid to the Thomson Mcduffie Development Authority, and/or W&A Engineering, or any work performed in connection therewith, is the responsibility of the Bidder(s).
- 15. BID SECURITY.** Bid security in the form of a Bid Bond is mandatory and shall be made payable to the owner in the amount of five percent (5%) of the bid sum. Security shall be an original bid bond issued by a surety licensed to conduct business in the State of Georgia, and be included on the Federal Approved Surety's List. The successful bidder's security will be retained until he has signed the Contract and furnished the required payment and performance bonds. The Owner reserves the right to retain the security of the other bidders until the successful bidder enters into contract or until 90 days after bids are received. If awarded bidder refuses to enter into a contract, the Owner will retain his bid security as liquidated damages, but not as a penalty. The bid security must be submitted with the Bid.
- 16. PERFORMANCE BONDS.** Performance bonds in the amount of 100% of the contract total will be required if the contract is awarded.
- 17. PAYMENT BONDS.** Payment bonds in the amount of 100% of the contract total will be required in the contract is awarded.
- 18. INSURANCE AND BONDING REQUIREMENTS.** The Bidder's attention is directed to the insurance and bonding requirements set out in Section 00200 herein. The Contractor will be required to furnish a certificate of insurance to the Owner prior to execution of the contract by the Owner.
- 19. GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT.** By submitting a Bid and executing the attached Affidavits, the Bidder verifies its compliance with O.C.G.A. §13-10-91, as amended, stating affirmatively that the individual, firm or corporation which is contracting with the Thomson Mcduffie Development Authority, has registered and is participating in a federal work authorization program [an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the US. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91, as amended. The Bidder further agrees that should it employ or contract with any subcontractor(s) for the physical performance of services pursuant to the contract with the THOMSON MCDUFFIE DEVELOPMENT AUTHORITY, the Bidder will secure from the subcontractor(s) verification of compliance with O.C.G.A. § 13-10-91, as amended, on the attached Subcontractor Affidavit. The Bidder further agrees to maintain records of such compliance and shall provide a copy of each such verification to THOMSON MCDUFFIE DEVELOPMENT AUTHORITY, at the time the subcontractor(s) is retained to perform such services.
- 20. BIDDER'S QUALIFICATION.** All responding Bidder shall complete and execute the STATEMENT OF BIDDER'S QUALIFICATION portion of Bid Form in full. Failure to completely, clearly and comprehensively answer all questions may result in rejection of Bid. If the

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REQUEST FOR BID, OVERVIEW AND PROCEDURES

available evidence of competency of any Bidder is not satisfactory, the Bid of such Bidder may be rejected.

**21. BID RESPONSIVENESS.** Bids must be responsive to be considered. In order to be considered a Responsive Bid, a Bid must comply with all material requirements of the solicitation. A responsiveness determination shall be made by the public owner based upon the Bid documents at the time of the Bid-submittal, unaided by other documentation or post-Bid information. Material deviations in an Bidder's Bid include the following:

- a. A Bid that does not include a signed Solicitation for Sealed Bid Form, signed by an authorized individual who has authority to bind the company
- b. A Bid which fails to include Acknowledgement of Addenda, if the addendum contains information which substantively changes the owner's requirement
- c. A Bid not submitted strictly in accordance with the specified time limits
- d. A Bid which fails to provide the required original Bid bond or guarantee
- e. A Bid which fails to include the required Minority Business Enterprise Program Identification Form
- f. A Bid which fails to include the required Georgia Security and Immigration Compliance Act Affidavit forms for the Contractor

**22. BIDDER'S RESPONSIBILITY.** Contract will be awarded to the responsible Bidder who has submitted the most qualified and lowest responsive Bid. It must be determined whether an Bidder has the necessary supervision, equipment, manpower, financial support, technical capacity, responsibility, integrity, experience and other resources necessary to complete the contract as required by the Bid solicitation.

This determination requires that the public agency gather information and consider factors beyond the Bid itself. The following factors of responsibility may be used to determine Bidder Responsibility:

- a. The quality of work by the Bidder on other similar projects
- b. The Bidder's financial solvency
- c. The Bidder's previous employment on public works projects
- d. Reports, whether favorable or unfavorable, from a Bidder's reference

One of the following factors shall constitute the basis of inadequate Bidder Responsibility.

- a. Bidder has been guilty of fraud in connection with other projects.
- b. Bidder has a history of disputes and litigiousness.
- c. Bidder cannot demonstrate prior experience with the type of work represented by the proposed contract.
- d. Bidder has previously defaulted on construction contracts.

**23. SUBCONTRACTORS.** The successful Bidder will be permitted to sublet a portion of the work. However, the successful Bidder acting as Prime Contractor shall perform, with his own organization, work amounting to not less than **thirty percent (30%)** of the total contract cost, including materials, equipment, and labor. Purchase of materials and rental of equipment by the Prime Contractor for use by a Subcontractor will not be allowed when computing the 30% limitation.

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REQUEST FOR BID, OVERVIEW AND PROCEDURES

**Preliminary Subcontractor List** – Names of subcontractors from whom quotes, Bids, Bids, or other information used to build the Bid were obtained or who may be considered by the Bidder for subletting, should be listed and included with the Bid.

**Proposed Subcontractor List** – Upon determination of the apparent Successful Bidder, the apparent Successful Bidder, and any other Bidder so requested, should within three (3) days after the Bid opening submit to Owner a list of all Subcontractors, Suppliers and other persons proposed for those portions of the Work for which such identification is required. Such list should be accompanied by an Experience Statement with pertinent information regarding similar projects and other evidence of qualification (equipment, manpower availability) for each such Subcontractor, Supplier, or person. If Owner, after due investigation has reasonable objection to any proposed Subcontractor, Supplier, or other person, may before the Notice of Award is given, request the apparent Successful Bidder to submit an acceptable substitute in which case the apparent Successful Bidder shall comply. That Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution and Owner may consider such price adjustment in evaluating Bids and making the contract award.

If apparent Successful Bidder declines to make any such substitution, Bidder responsibility will be considered inadequate and Owner may award the contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers and other persons. The declining to make the requested substitutions will not constitute grounds for sacrificing the Bid security of any Bidder.

- 24. HOLD HARMLESS AND INDEMNIFICATION.** The Bidder agrees, insofar as it legally may, to indemnify and hold harmless the Thomson Mcduffie Development Authority, its officers, employees and agents from and against all loss, costs, expenses, including attorneys' fees, claims, suits and judgments, whatsoever in connection with injury to or death of any person or persons or loss of or damage to property resulting from any and all operations performed by Bidder, its officers, employees, and agents under any of the terms of this contract.
- 25. INDEPENDENT CONTRACTOR.** The contractor shall not be an employee of the Thomson Mcduffie Development Authority, but shall be an independent contractor. Nothing in this agreement shall be construed as authority for the contractor to make commitments which shall bind the Board of Commissioners or to otherwise act on behalf of the Board of Commissioners, except as the Board of Commissioners expressly authorizes in writing.
- 26. EXECUTION OF CONTRACT.** Each Bidder shall be prepared, if so, requested by the Owner, to present evidence of his experience, qualifications, and financial ability to carry out the terms of the Contract. Notwithstanding any delay in the preparation and execution of the formal Contract Agreement, each Bidder shall be prepared, upon written notice of Bid acceptance, to commence work within 10 days following receipt of official written order of the Owner to proceed, or on date stipulated in such order. The accepted Bidder shall assist and cooperate with the Owner in preparing the formal Contract Agreement, and within ten (10) days following its presentation shall execute same and return it to the Owner.
- 27. COMMENCEMENT OF WORK AND WORK PERIOD.** The Thomson Mcduffie Development Authority expects to Award the contract within **60 days** of the Bid opening date and issue a Notice to Proceed within **30 days** of Award. Work will be required to commence within **ten (10) days** of

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REQUEST FOR BID, OVERVIEW AND PROCEDURES

Notice to Proceed.

- 28. BASIS FOR BID AND CONTRACT.** This is a low bidder contract. Award will be made to the responsible Bidder whose Bid represents the best value. The Thomson McDuffie Development Authority may reject any or all Bids if such action is in the Board of Commissioners interest.
- 29. BASIS OF PAYMENT AND RETAINAGE.** Payment shall be made on the basis of prices given in the Bid. Lump sum prices shall be paid on the percent complete based upon a breakdown of lump sum items in the Bid and materials delivered to the job site. Unit prices will be applied to the actual quantities furnished and installed, as specified, in order to determine payment. For each application of payment, the owner shall retain a sum equal to ten percent (10%) of total earned amount.
- 30. SCHEDULE.** The Contractor shall generate within ten (10) calendar days after the award of contract, a Gantt Chart schedule reflecting all construction activities against time, broken down by applicable work items. The schedule shall reflect the following:

For scheduling purposes, the Notice to Proceed Date may be considered as September 1, 2021.

1. **Substantial Completion:** Work of **STONE INDUSTRIAL PARK PHASE A** shall commence within **ten (10) calendar days** of the date of Notice to Proceed. **Substantial Completion** of all the Work shall be accomplished within **ninety (90) calendar days** of the Notice to Proceed.
  2. **Final Completion:** Final completion of all the Work including Corrective Work shall be achieved within **30 calendar days** from certified Substantial Completion.
- 31. BRAND NAMES.** Bidders are to Bid as specified herein or Bid a pre-approved equal. Determination of equality is solely the Thomson McDuffie Development Authority's responsibility.
- 32. MINORITY BUSINESS ENTERPRISE (MBE) POLICY.** It is the policy of the Thomson McDuffie Development Authority that no person or business shall be excluded from participation, denied the benefits of, or otherwise discriminated against in relation to the award and performance of any contract or subcontract on the grounds of race, color, creed, national origin, age, or sex.
- 33. AMERICANS WITH DISABILITIES ACT (ADA).** A qualified interpreter for the hearing impaired is available upon request at least ten (10) days in advance of the bid opening date. Please email Buck Bacon at [bbacon@waengineering.com](mailto:bbacon@waengineering.com) or call (706) 310-0400 for more information for the hearing impaired. This service is in compliance with the Americans with Disabilities Act (ADA).
- 34. PERMITS.** Contractors shall coordinate with the Engineer to obtain all necessary permits.

**END OF SECTION**

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INSURANCE AND BONDING REQUIREMENTS**1.01 General**

- A. The following general requirements apply to any and all Work under this Contract. Compliance is required by all Contractors and Sub-contractors of any tier. The Owner reserves the right to adjust or waive any or all requirements based on receipt of additional information pertinent to this Contract.
- B. Evidence of Insurance Required Before Work Begins: No Contractor or Subcontractor shall commence any work of any kind under this Contract until all Insurance requirements contained in this Contract shall have been complied with as outlined below, and until evidence of such compliance satisfactory to the Owner as to form and content, has been filed with the Owner. The Accord Certificate of Insurance or a pre-approved substitute is the required form in all cases where reference is made to a Certificate of Insurance or an approved substitute.
- C. Minimum Financial Security Requirements
  - 1. Any and all companies providing insurance required by this Contract must meet certain minimum financial security requirements set forth below. These requirements conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-Casualty. The ratings for each company must be indicated on the Accord Certificate of Insurance Form. For all Contracts, regardless of size, companies providing insurance under this Contract must have a current:
    - a. Best's Rating not less than A, and current; and
    - b. Best's Financial Size Category not less than Class VII.
    - c. Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia.
  - 2. If the issuing company does not meet these minimum requirements, or for any other reason shall be or become unsatisfactory to the Owner, written notification shall be mailed by the Owner to the Contractor who shall promptly obtain a new policy issued by an insurer acceptable to the Owner, and shall submit evidence of the same to the Owner as required herein.
  - 3. Upon failure of the Contractor to furnish, deliver and maintain such insurance as herein provided, this Contract, at the election of the Owner, may be declared forthwith suspended, discontinued or terminated. Failure of the Contractor take out and/or to maintain any required insurance shall not relieve the Contractor from any liability under the Contract, nor shall these requirements be construed to conflict with the obligation of the Contractor concerning indemnification.
- D. Insurance Required for Duration of Contract: Any and all Insurance required by this Contract shall be maintained during the entire length of this Contract, including any extensions thereto, and until all Work has been completed to the satisfaction of the Owner. The Owner shall have the right to

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INSURANCE AND BONDING REQUIREMENTS

inquire into the adequacy of the insurance coverages set forth in this Contract and to negotiate such adjustments as reasonably appear necessary.

- E. The Contractor shall submit to the Owner, along with the Insurance Certificate(s), a copy of the Insurer's cancellation notice for any and all Insurance policies required by this Contract.
- F. Additional Insureds: The Owner and Designer shall be covered as Additional Insured under any and all Insurance required by this Contract, and such insurance shall be primary with respect to the Additional Named Insured. Confirmation of this shall appear on the Accord Certificate of Insurance, and on any and all applicable Insurance policies. However, this requirement does not apply to Workers' Compensation or Professional Liability Insurance. Copies of endorsements showing that the Owner and each additional insured identified herein have been added to the policies as an additional insured shall be attached to each of the certificates. Include the following parties or entities as additional insured:
  - 1. The Thomson McDuffie Industrial Authority, 149 Main St, Thomson, Georgia 30824
- G. Mandatory Subcontractor Compliance: Contractor shall incorporate a copy of these Insurance requirements in each and every contract with each and every Subcontractor of any tier, and shall require each and every Subcontractor of any tier to comply with all such requirements. Contractor agrees that if for any reason Subcontractor fails to procure and maintain Insurance as required, all such required Insurance shall be procured and maintained by Contractor at Contractor's expense.
- H. Authorization and Licensing of Agent
  - 1. Each and every agent acting as Authorized Representative on behalf of a Company affording coverage under this Contract shall warrant, when signing the Accord Certificate of Insurance, that specific authorization has been granted by the Companies for the agent to bind coverage as required and to execute the Accord Certificate of Insurance as evidence of such coverage; that the coverage required by the Owner may be broader than the original policies; and that these requirements have been conveyed to the Companies, which acknowledge and assent to these terms and conditions.
  - 2. In addition, each and every agent shall warrant when signing the Accord Certificate of Insurance that the agent is licensed to do business in the State of Georgia and that the Company or Companies are currently in good standing in the State of Georgia.

## **1.02 Certificates of Insurance**

- A. Contractor shall deliver to Owner, with copies to each additional insured certificate(s) of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.
- B. Copies of endorsements showing that the Owner and each additional insured identified herein have been added to the policies as an additional insured shall be attached to each of the certificates.

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**INSURANCE AND BONDING REQUIREMENTS**

- C. Insurance certificate must specifically show coverage applies for contractual liability for Contractor's indemnity obligations under Paragraphs 6.13 and 6.23.
- D. In addition to the requirement for the policy limits specified below, the applicable insurance certificate must show that the entire aggregate policy limits for general liability coverage will apply specifically for the Project.
- E. Each insurance certificate for all coverages other than Worker's Compensation Insurance must show that a waiver of rights of recovery against any of the insured or the additional insured is in effect.
- F. Certificate for Contractor's liability insurance must show coverage of claims for damages because of bodily injury, sickness or death of any person or property damage resulting from the Ownership, maintenance or use of mobile equipment.
- G. Each insurance certificate must show coverage is underwritten with an insurance carrier who is rated no less than the Minimum Financial Security Requirements provided above.
- H. Certificate for Worker's Compensation Insurance must show coverage includes executive officers and Contractor's leased employees, temporary staff and part-time employees.
- I. Owner may waive specific insurance coverages set forth where Contractor provides equivalent insurance coverage by way of a different combination of policies.

**1.03 Coverages and Limits**

- A. The Contractor shall provide all coverages listed below.
- B. Workers' Compensation and Employer's Liability Insurance: The Contractor shall procure and maintain Workers' Compensation and Employer's Liability Insurance in the following limits, such insurance to cover each and every employee who is or may be engaged in work under the Contract:

Workers' Compensation. . . Statutory

Employer's Liability

Bodily Injury by Accident/Disease - \$1,000,000 each accident  
 Bodily Injury by Accident/Disease - \$1,000,000 each employee  
 Bodily Injury by Accident/Disease - \$1,000,000 policy limit

- C. Comprehensive General Liability Insurance: The Contractor shall procure and shall maintain during the life of the Contract Agreement, such Comprehensive General Liability and Broad Form Property Damage Insurance as shall protect Contractor and any subcontractor performing Work covered by this Contract from claims for damages for bodily injury, including accidental death, as well as from claims for property damages, which may arise from operations under the Contract

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**INSURANCE AND BONDING REQUIREMENTS**

Agreement, whether such operations are by the Contractor or by any subcontractor or by anyone directly or indirectly employed by wither of them. The amount of insurance shall not be less than the following:

General Aggregate for each annual period	\$2,000,000.00
Products Comp/Ops Aggregate for each annual period*	\$2,000,000.00
Personal and Advertising Injury	\$1,000,000.00
Each Occurrence	\$1,000,000.00
Fire Damage (Any one fire)	\$ 500,000.00
Medical Expenses (Any one person)	\$ 10,000.00

*\*Completed Operations coverage extending for not less than three years after the completion of Work and Acceptance by the Owner.*

Contractor may provide General Liability, Automobile Liability, and Employer's Liability with lower limits provided that the Umbrella/Excess Liability Insurance Limits are increased such that the total of the basic limits and umbrella/excess limits remain the same or higher.

- D. Owner's Protective Liability: The Contractor shall procure and shall maintain during the life of the Contract Agreement, Owner's Protective Liability Insurance with the same limits as the Comprehensive General Liability.
- E. Excess Liability: Provide Excess Liability or Umbrella insurance providing protection for at least the hazards insured under the primary liability policies with the following limits:

General Aggregate	\$2,000,000.00
Each Occurrence	\$1,000,000.00

- F. Automobile Liability: The Contractor shall procure and maintain during the life of the Contract Agreement, Comprehensive Automobile Liability Insurance. The insurance shall include coverage for owned, non-owned and hired vehicles. Amounts shall not be less than the following:

Comprehensive Single Limits (CSL)	\$1,000,000.00
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- G. Materials and Equipment Floater: The Contractor shall procure and shall maintain during the life of the Contract Agreement Materials and Equipment Floater Insurance to protect the interests of the Owner, the Contractor, and subcontractors against loss by vandalism, malicious mischief, and all hazards included in a standard All Risk Endorsement. The amount of the insurance shall at all times equal or exceed the full amount of the Contract. The policies shall be in the names of the Owner and the Contractor.
- H. Property Insurance: The Contractor shall obtain "All Risk" Property Insurance for the Contractor's tools, personal property, or equipment (including rail or conveyor systems, ventilation systems, office trailers, and other equipment that will not become part of the final completed work and is not covered in another insurance policy required for this project) whether owned, rented, or leased.

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**INSURANCE AND BONDING REQUIREMENTS**

- J. Deductibles and Self-Insured Retention: Any deductibles or self-insured retentions will be borne by the Contractor. All deductibles or self-insured retentions must be declared to and approved by the Owner. At the option of the Owner, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Owner, its officers, officials, and employees; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses. The costs of implementation of such option will be addressed by a change order.
- K. Environmental Liability Insurance: The Contractor shall obtain "All Risk" Environmental Insurance for property loss and liability arising from pollution-related damages for the site. Coverage shall include statutory clean-up requirements, bodily injury, property damage of third-party claims and legal expense resulting from pollution or contamination incidents. For incidents sudden and accidental and incidents gradual, for business interruption losses.
- |                   |                |
|-------------------|----------------|
| General Aggregate | \$1,000,000.00 |
| Each Occurrence   | \$1,000,000.00 |
- L. The Contractor is responsible for losses within the deductible limits.

**1.04 Bid Bond**

- A. The Bidder shall provide a Bid Bond in the amount of five percent (5%) of the total amount of the total proposal sum, including forms included in Section 410 and 411 of this Project Manual.
- B. The Bidder shall be responsible for all cost associated with the Bid Bond.

**1.05 Performance Bond**

- A. The Contractor shall provide a Performance Bond in the amount of one-hundred percent (100%) of the total amount of the awarded contract, including forms included in Section 600 of this Project Manual.
- B. The Contractor shall be responsible for all cost associated with the Performance Bond.

**1.06 Payment Bond**

- A. The Contractor shall provide a Payment Bond in the amount of one-hundred percent (100%) of the total amount of the awarded contract, including forms included in Section 600 of this Project Manual.
- B. The Contractor shall be responsible for all cost associated with the Payment Bond.

**END OF SECTION**

## PROPOSAL SUBMITTAL INSTRUCTIONS

## PROPOSAL SUBMITTAL INSTRUCTIONS

- A. **GENERAL.** Submit Proposal, on forms provided by W&A Engineering and the Thomson McDuffie Development Authority in the Proposals package, and all other items required in a sealed envelope, addressed as stated in Request for Proposal, Overview and Procedures. If Proposal is submitted by mail, enclose it in a second envelope for mailing. The outermost envelope should contain identifying information as stated in Request for Proposals, Overview and Procedures.

**All Proposals and documentation received will become a part of the official contract file and may be subject to disclosure under the Open Records Act.**

- B. **PRE-BID CONFERENCE.** A **mandatory** pre-BID conference to respond to all inquiries with regards to this project will be held at **10:00 AM E.T., Wednesday, December 15, 2021** at Archway Partnership Office, Thomson Depot, 111 Railroad Street, Thomson, Georgia 30824. **Potential Bidders are required to attend.**

- C. **PROPOSAL FORMAT.** Offerors are expected to examine the specifications, BID schedule, and all instructions. Failure to do so will be at the Offeror's risk. ***Each Offeror shall furnish the information required by the solicitation. The BID SUBMITTAL must be signed by an officer of the company, who is legally authorized to enter into a contractual relationship in the name of the Offeror.*** All bids should include the information outlined below **in the following order:**

1. **MANDATORY/RESPONSIVE DOCUMENTS and CHECKLIST**

**INCLUDE WITH BID** – The following **Mandatory/Responsive Proposal Documents** must be executed and included with the proposal at the time of proposal submittal. Proposals submitted without these documents will be rejected on the basis of inadequate Offeror responsiveness.

- ☐ A **SIGNED PROPOSAL W/SCHEDULE OF VALUES**
- ☐ B **ACKNOWLEDGEMENT OF ADDENDA**
- ☐ C **STATEMENT OF BIDDER'S QUALIFICATIONS**
- ☐ D **BID BOND** An original, complete bid bond must be submitted per requirements detailed in the Bid Bond Checklist of Attachment D
- ☐ E (E-1, E-2, E-4) **GEORGIA SECURITY & IMMIGRATION COMPLIANCE (GSIC) AFFIDAVITS OF PRIME CONTRACTOR**
- ☐ F **CORPORATE CERTIFICATE *OR***
- ☐ G **PARTNERSHIP CERTIFICATE**

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PROPOSAL SUBMITTAL INSTRUCTIONS

- ☐ **H NON-COLLUSION AFFIDAVIT OF PRIME BIDDER**
- ☐ **I PRELIMINARY LIST OF SUBCONTRACTORS**
- ☐ **J SUBSTITUTION LISTING**
- ☐ **K W9**

**SUBMIT WITHIN 3 BUSINESS DAYS OF PROPOSAL** – The following **Mandatory/Responsive Proposal Documents** must be submitted to the Project Manager within 3 business days of time of proposal submittal. Proposals submitted without these documents will be rejected on the basis of inadequate Offeror responsiveness.

- ☐ **M SUBCONTRACTOR LISTING**
- ☐ **N NON-COLLUSION AFFIDAVIT OF SUBCONTRACTOR**
- ☐ **O (E-1, E-3, E-4) GEORGIA SECURITY & IMMIGRATION COMPLIANCE (GSIC) AFFIDAVITS OF SUBCONTRACTORS**
- ☐ **P CONTRACTORS LICENSE CERTIFICATION**
- ☐ **Q PROJECT MANAGER QUALIFICATION**
- ☐ **R PROJECT SUPERINTENDENT QUALIFICATION**

**2. SUPPLEMENTARY/RESPONSIBLE OFFEROR DOCUMENTS and CHECKLIST**

**INCLUDE POST PROPOSAL** - The following **Supplementary/Responsible Offeror Documents** should be executed and submitted to the Project Manager within the time specified below. Proposals not meeting this requirement could constitute the basis of inadequate Offeror responsibility and may be rejected.

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PROPOSAL SUBMITTAL INSTRUCTIONS**SUBMIT WITHIN THREE (3) BUSINESS DAYS OF PROPOSAL, UPON REQUEST -**

The apparent Successful Offeror and any other Offeror so requested shall submit the following **Supplementary/Responsible Offeror Documents** to the Project Manager within three (3) Business days after Proposal Opening.

- ☐ M SUBCONTRACTOR LISTING
- ☐ N CONTRACTORS LICENSE CERTIFICATION
- ☐ O OCCUPATIONAL TAX LICENSE
- ☐ P PROJECT MANAGER QUALIFICATION
- ☐ Q PROJECT SUPERINTENDENT QUALIFICATION

**SUBMIT WITHIN FIVE (5) BUSINESS DAYS OF PROPOSAL**

The apparent Successful Offeror shall submit the following **Supplementary/Responsible Offeror Documents** to the Project Manager within five (5) Business days after Proposal Opening.

- ☐ R CD-ROM Format- One (1) CD-ROM containing the MANDATORY/RESPONSIVE and SUPPLEMENTARY/RESPONSIBLE Documents. The CD-ROM should be in PDF format and labeled on the CD with the Company name, address, telephone number, and the PROPOSAL Title and BID #.

**D. BID OPENING.** All Bids will be opened in public and read aloud at the time and place of the Bid opening.

**E. MINIMUM PROPOSAL ACCEPTANCE PERIOD.** Proposals shall be valid and may not be withdrawn for a period of **90 days** from the date specified for receipt of Proposals.

**END OF SECTION**

**THOMSON MCDUFFIE DEVELOPMENT AUTHORITY  
BID # 2021-07-01**

**FROM:**

Company Name/Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**TO:**

**THOMSON MCDUFFIE DEVELOPMENT AUTHORITY**

149 Main Street  
Thomson, Georgia 30824

**GENTLEMEN/LADIES:**

In compliance with your Advertisement for Request for Proposals, the Offeror hereby proposes and agrees to perform and furnish all work for the construction of the project known as **“BID # 2021-07-01 – STONE INDUSTRIAL PARK PHASE A”** in strict accordance with the Contract Documents, within the time set forth therein, and at the prices stated below.

By submission of this Proposal, the Offeror certifies, and in the case of a joint Proposal, each party thereto certifies as to its own organization that:

1. The Undersigned Offeror proposes to furnish all services, labor and materials required by them in according with said documents, for the Guaranteed Maximum Price (GMP) of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), which sum is hereinafter called the "GMP".
2. The Offeror has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect the cost, progress, performance, and furnishing of the Work.
3. The Offeror assumes the responsibility for the accurate location of all underground facilities at or contiguous to the site, which may affect the cost, progress, performance or furnishing of the work.

4. The Offeror has given the Project Manager written notice of all conflicts, errors, ambiguities, or discrepancies that the Offeror has discovered in the Contract Documents, and the written resolution hereof by the Project Manager is acceptable to the Offeror.
5. The Contract Documents are sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this bid is submitted.
6. This bid is genuine and not made in the interest of or on behalf of an undisclosed person, firm, or corporation and is not submitted in conformity with any agreement of rules of any group, association, organization or corporation; the Offeror has not directly or indirectly induced or solicited any other Offeror to submit a false or sham bid; the Offeror has not solicited or induced any person, firm, or corporation to refrain from bidding; and the Offeror has not sought by collusion to obtain for itself any advantage over any other Offeror or over the Owner.
7. In case the Offeror is notified in writing by mail, facsimile or delivery of the acceptance of this proposal within 90 days after the time set for the opening of bids, the Offeror agrees to execute within ten days, a contract for the Work for the above-stated compensation and furnish and deliver to the Owner, a Performance Bond and Payment Bond, both in an amount equal to one hundred percent of the Contract sum.
8. Enclosed herewith is an original **Proposal Bond** (Certified checks and/or cash not acceptable), in the amount of \_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_) being not less than 5% of the Guaranteed Maximum Price (GMP) and according to the conditions of "Invitation for Proposal Overview and Procedures."
9. The Contractors Fee, Overhead and General Conditions shall be limited to the following percentages of the total contract. Maximum Fee, Overhead, and General Conditions shall be:
  - Fee = 6% of Hard Construction Costs Not Including, Overhead, Bond, or Insurance Costs.
  - Overhead = 2% of Hard Construction Costs, Not Including, Fee, Bond, or Insurance Costs.
  - General Conditions = 6% of Hard Construction Costs Not Including Fee, Overhead, Bond or Insurance Costs

Contractor's Fee shall be adjusted by 6% of the Hard Construction Costs of a change order that changes the scope of work. Contractor's Overhead shall be adjusted by 2% of the Hard Construction Costs of a change order that changes the scope of work. Hard Construction costs as related to Change Orders shall be the actual cost incurred by the Contractor's Subcontractor or Vendor. These costs shall be fully documented with each change order request using an AIA G701 and supplying a copy of the Vendor/Subcontractor's actual invoice.

Vendor/Subcontractor's actual invoices shall include at minimum a breakdown of Vendor/Subcontractor's material cost, labor cost, profit, and overhead.

General Conditions may not be increased unless additional scope of work is added to the contract that will result in an extension of time to the contract. If an extension of time is approved then the contractor may increase the amount of General Conditions (6%) by the said percentages applied to the additional hard construction costs associated with the change order that increases the time of this contract.

10. If this proposal is accepted within **90 days** after the date set for the opening of bids and the undersigned fails to execute the contract within **10 days** after notice of such acceptance or if he fails to furnish both performance and Payment Bond, the obligation of the Proposal Bond will remain in full force and effect and the money payable thereon shall be paid into the funds of the Owner for such fair use; otherwise obligation of the bond will be null and void.
11. The successful Offeror will furnish a Certificate of Insurance to the owner prior to execution of the Contract by the Owner.
12. **TIME FOR COMPLETION:** The Contractor shall commence actual physical work on the Project within **ten (10) calendar days** of the date of the Notice to Proceed. The Contractor shall complete the work of each project ready for use not later than the number of calendar days as set forth below.
  1. **Substantial Completion:** Work of **STONE INDUSTRIAL PARK PHASE A** shall commence within **ten (10) calendar days** of the date of Notice to Proceed. **Substantial Completion** of all the Work shall be accomplished within **ninety (90) calendar days** of the Notice to Proceed.
  2. **Final Completion:** Final completion of all the Work including Corrective Work shall be achieved within **30 calendar days** from certified Substantial Completion.
13. **LIQUIDATED DAMAGES.** Contractor and Owner recognize that time is of the essence and is an essential element of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified above, plus any extensions thereof allowed in accordance with the General Conditions. The parties also recognize the delays, expense, and difficulties involved in legally proving the true value of the damages which the Owner will sustain by failure of the Contractor to complete the Work on time.
  - A. **Substantial Completion** – Accordingly, instead of requiring any such proof, Owner and Contractor agree that in the event that the work to be done under this Contract is not substantially completed within the time specified (and such additional extension of time as the Owner may have granted), the Owner will retain from the compensation otherwise to be paid to the Contractor, including progress payments, the sum of **\$5,000.00** for each additional day required to bring the work to substantial completion.
    1. Substantial completion is achieved when all items of work are completed in accordance with the Contract Documents, so that the project can be safely, conveniently and beneficially utilized for the purposes for which it is intended.

**B. Final Completion** – After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times or any proper extension thereof granted by Owner, the Owner will retain from the compensation otherwise to be paid to the Contractor, including progress payments, the sum of **\$2,000.00** for each additional day required to bring the work to Final Completion.

1. Final Completion is achieved when all corrective or punch list work is complete and the project is totally and completely capable of being utilized for the purposes for which is intended.

These fixed liquidated damages, as stated above, are established not as a penalty but are calculated and agreed upon in advance by the Owner and the Contractor due to the uncertainty and impossibility of making a determination as to the actual and consequential damages incurred by the Owner as a result of the failure on the part of the Contractor to complete the Work on time. The parties agree that the stipulated sum is a reasonable estimate of the probable loss by Owner. Such liquidated damages referred to herein are intended to be and are cumulative and shall be in addition to every other remedy now or hereafter enforceable at law, in equity, by statute, or under the Contract

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**Company Name:** \_\_\_\_\_

14. The Offeror agrees to perform all the Work described in the Contract Documents for the following unit prices:

**THOMSON MCDUFFIE DEVELOPMENT AUTHORITY  
STONE INDUSTRIAL PARK PHASE A  
SCHEDULE OF VALUES**

**BID # 2021-07-01**

<b>PROPOSAL SCHEDULE A</b>						
<b>Item No.</b>	<b>GDOT Item No.</b>	<b>Description</b>	<b>Unit</b>	<b>Quantity (Est.)</b>	<b>Unit Price</b>	<b>Total Price</b>
1	150-1000	Traffic Control	LS	1		
2	163-0232	Temporary Grassing	AC	50		
3	163-0240	Mulch	TN	125		
4	163-0300	Construction Exit	EA	2		
5	163-0527	Construct & Remove Rip Rap Check Dams, Stone Plain Rip Rap	EA	50		
6	163-0543	Construct and Remove Stone Filter Ring	EA	3		
7	165-0540A	Construct and Remove Retrofit, Pond A-1	EA	1		
8	165-0540B	Construct and Remove Retrofit, Pond A-2	EA	1		
9	165-0540C	Construct and Remove Retrofit, Pond C-1	EA	1		

**ATTACHMENT A  
MANDATORY SUBMITTAL**

Section 00400 - 6  
**SCHEDULE OF VALUES**

10	165-0030	Maintenance of Temporary Silt Fence, TP C	LF	10,000		
11	165-0041	Maintenance of Check Dams, All Types	EA	50		
12	165-0095A	Maintenance of Retrofit, Pond A-1	EA	1		
13	165-0095B	Maintenance of Retrofit, Pond A-2	EA	1		
14	165-0095C	Maintenance of Retrofit, Pond C-1	EA	1		
15	165-0107A	Maintenance of Temporary Sediment Trap, No. 1	EA	1		
16	165-0107B	Maintenance of Temporary Sediment Trap, No. 2	EA	1		
17	165-0111	Maintenance of Stone Filter Ring	EA	1		
18	165-0531A	Construct and Remove Temporary Sediment Trap, No. 1	EA	1		
19	165-0531B	Construct and Remove Temporary Sediment Trap, No. 2	EA	1		
20	167-1000	Water Quality Sampling and Monitoring	MO	6		
21	167-1500	Water Quality Inspections	MO	6		
22	171-0030	Temporary Silt Fence, Type C	LF	10,000		
23	210-0100	Grading Complete	LS	1		
24	441-0600	Conc Headwalls	CY	8.22		
25	550-1180	Storm Drain Pipe, 18 in, H 1-10	LF	44		

**ATTACHMENT A  
MANDATORY SUBMITTAL**

**Section 00400 - 7  
SCHEDULE OF VALUES**

26	550-1240	Storm Drain Pipe, 24 in, H 1-10	LF	240		
27	550-1300	Storm Drain Pipe, 30 in, H 1-10	LF	78		
28	550-1360	Storm Drain Pipe, 36 in, H 1-10	LF	79		
29	603-2181	Stn Dumped Rip Rap, Tp 3, 18 in	SY	3,900		
30	668-9800	Outlet Control Structure	EA	3		
31	700-6910	Permanent Grassing	AC	50		
32	700-7000	Agricultural Lime	TN	125		
33	700-8000	Fertilizer Mixed Grade	TN	125		
34	716-2000	Erosion Control Mats, Slopes	SY	38,000		
<b>TOTAL PROPOSAL A:</b>						

15. **BASIS FOR PROPOSAL AND CONTRACT.** The Owner shall have the right to accept a proposal and/ or Alternate(s) in any order or combination, and to determine the successful Offeror on the basis of the review by the Oconee County Board of Commissioners. The price basis for bids and for the contract shall be the Total Contract Amount for all of the work under the contract complete in place, tested, approved, and ready for service including any owner approved Substitutions as proposed by Offeror on the Substitution Listing submitted with proposal. The Owner shall pay no additional amount unless it is extra work approved and authorized by change order all as described in the General Conditions.
16. The Offeror acknowledges that the quantities shown for unit price items are subject to either increase or decrease, and that should the quantities of any of the items of Work be increased, the Offeror proposes to do the additional Work at the unit prices stated herein; and should the quantities be decreased, the Offeror also understands that payment will be made on the basis of actual quantities at the unit price proposal and will make no claim for additional costs or anticipated profits for any decrease in quantities; and that actual quantities will be determined upon completion of Work, at which time adjustment will be made to the Contract amount by direct increase or decrease.

17. In case of discrepancies between the figures shown in the unit prices and the totals, the unit prices shall apply and the totals shall be corrected to agree with the unit prices. In case of discrepancies between written amounts and figures, written amounts shall take precedence over figures and the sum of all Proposal extensions (of unit prices) plus lump sum items shall take precedence over TOTAL PROPOSAL AMOUNT.

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Section 00400 - 9  
SCHEDULE OF VALUES

Name	Address

OFFEROR: \_\_\_\_\_  
(name of company)

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(name printed or typed)

Attest: \_\_\_\_\_  
(name signed)

(name printed or typed)

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

(SEAL)

Note: If the Offeror is a corporation, the Proposal shall be signed by an officer of the corporation; if a partnership, it shall be signed by a partner. If signed by others, authority for signature shall be attached.

STONE INDUSTRIAL PARK PHASE A

00400 - 9

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ACKNOWLEDGEMENT OF ADDENDA

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1. The Offeror has examined and carefully studied the Contract Documents and the following Addenda, receipt of all of which is hereby acknowledged:

Addendum No.		Dated		Acknowledgement	
Addendum No.		Dated		Acknowledgement	<i>Initial</i>
Addendum No.		Dated		Acknowledgement	<i>Initial</i>
Addendum No.		Dated		Acknowledgement	<i>Initial</i>
Addendum No.		Dated		Acknowledgement	<i>Initial</i>
Addendum No.		Dated		Acknowledgement	<i>Initial</i>
Addendum No.		Dated		Acknowledgement	<i>Initial</i>
					<i>Initial</i>

Bidders must acknowledge any issued addenda. Bids which fail to acknowledge the Offeror's receipt of any addenda will result in the rejection of the proposal if the addendum contained information which substantively changes the Owner's requirements.

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STATEMENT OF OFFEROR'S QUALIFICATIONS

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

**STATEMENT OF BIDDER'S QUALIFICATIONS**

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The Offeror may submit additional information. Attach all additional sheets to this Statement.

Legal Name of Offeror: \_\_\_\_\_

Permanent Main Office Address: \_\_\_\_\_

1. When organized? \_\_\_\_\_

2. If a Corporation, where incorporated? \_\_\_\_\_

3. Number of years engaged in the contracting business under your present firm or trade name? \_\_\_\_\_

4. Credit Available for this contract? \_\_\_\_\_

5. Projects/work now in progress and expected completion: \_\_\_\_\_

6. Contracts now in hand (Gross Amount): \_\_\_\_\_

7. General character of work performed by your company: \_\_\_\_\_

8. In the past 3 years, have you failed to complete a project within the original contract time? \_\_\_\_\_

9. If so, where and Why? \_\_\_\_\_

10. Have you ever defaulted on a Contract? If so, where and why? \_\_\_\_\_

11. List projects completed by your company that were similar to this project and whom may be contacted as reference to your being a qualified and responsible offeror for this type of work:

PROJECT	COST	COMPLETED	CONTACT	PHONE

**ATTACHMENT C  
MANDATORY SUBMITTAL**

Section 00405 - 2

STATEMENT OF OFFEROR'S QUALIFICATIONS

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

12. Background and experience of the principal members of your organization, including officers:

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

13. Have you ever refused to sign a Contract at the original proposal? If so, where and why?

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

14. Give bank reference: \_\_\_\_\_

15. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the Local Public Agency in verification of the recitals comprising this Statement of Offeror's Qualifications.

I, \_\_\_\_\_, certify that I am a principal or other representative of the Offeror, and that the answers to the foregoing questions and statements contained therein are true and correct.

OFFEROR: \_\_\_\_\_  
*(company name)*

By: \_\_\_\_\_  
*(name signed)*

\_\_\_\_\_  
*(name printed or typed)*

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

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

Subscribed and sworn to me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

NOTARY PUBLIC: \_\_\_\_\_  
*(name signed)*

\_\_\_\_\_  
*(name printed or typed)*

Commission Expires: \_\_\_\_\_  
*(Date)*

(SEAL)

ORIGINAL PROPOSAL BOND CHECKLIST

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

**ORIGINAL PROPOSAL BOND CHECKLIST**

**SUBMIT ORIGINAL PROPOSAL BOND IN THIS SECTION, meeting the requirements listed below.**

***PLEASE NOTE THAT PROPOSAL BONDS RECEIVED NOT MEETING THESE REQUIREMENTS MAY BE REJECTED.***

- ☐ Original Proposal Bond with original signatures and seals for both offeror and surety, and Power of Attorney (with surety seal).
- ☐ Offeror named as Principal on Proposal bond.
- ☐ The THOMSON MCDUFFIE DEVELOPMENT AUTHORITY named as Obligee. Specific proposal project referenced on Proposal bond.
- ☐ Proposal bond meets minimum dollar amount (5% of total proposal sum).
- ☐ Proposal bond signed by same representative signing Proposal.
- ☐ Attorney-in-fact representing surety listed on Power of Attorney (exact name).
- ☐ Proposal Bond dated the same date as Power of Attorney and Proposal Form.
- ☐ Surety on Federal Treasury's list of approved sureties ([http://www.fms.treas.gov/c570/c570.html#Certified\\_Companies](http://www.fms.treas.gov/c570/c570.html#Certified_Companies)); Proposal bond amount within underwriting limit and surety authorized to do business in Georgia.
- ☐ Submit bond on attached form.

**END OF ORIGINAL PROPOSAL BOND CHECKLIST FORM**

**BID BOND**

STATE OF GEORGIA

COUNTY OF CLARKE

KNOW ALL MEN BY THESE PRESENTS, that we, \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety, are held and firmly bound unto the THOMSON MCDUFFIE DEVELOPMENT AUTHORITY in the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted to the Owner a Proposal for construction of:

**STONE INDUSTRIAL PARK PHASE A**

NOW THEREFORE, the conditions of this obligation are such that if the Proposal be accepted, the Principal shall, within ten days after receipt of conformed Contract Documents, execute a Contract in accordance with the Proposal upon the terms, conditions and prices set forth therein, and in the form and manner required by the Contract Documents and execute sufficient and satisfactory separate Performance and Payment Bonds payable to the Owner, each in an amount of 100 percent of the total Contract Price, in form satisfactory to the Owner, then this obligation shall be void; otherwise, it shall be and remain in full force and effect in law; and the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements within the time specified above, immediately pay to the aforesaid Owner, upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

This bond is given pursuant to and in accordance with O.C.G.A. §36-91-1 et.seq. and all the provisions of the law referring to this character of bond as set forth in said Sections or as may be hereinafter enacted and these are hereby made a part hereof to the same extent as if set out herein in full.

**ATTACHMENT D  
MANDATORY SUBMITTAL**

**Section 00411 - 2  
PROPOSAL BOND FORM**

IN WITNESS WHEREOF, the said Principal has hereunder affixed its signature and seal, and said Surety has hereunto caused to be affixed its corporate signature and seal, by its duly authorized officers, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CONTRACTOR – PRINCIPAL: \_\_\_\_\_

By: \_\_\_\_\_  
*(name signed)*

\_\_\_\_\_

*(name printed or typed)*

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

Address: \_\_\_\_\_

\_\_\_\_\_

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

*(name signed)*

\_\_\_\_\_

*(name printed or typed)*

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

(SEAL)

SURETY: \_\_\_\_\_

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

*(name signed)*

\_\_\_\_\_

*(name printed or typed)*

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

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

*(name signed)*

\_\_\_\_\_

*(name printed or typed)*

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

(SEAL)

Note: Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the Project is located. Surety and Insurers must have an A.M. Best Financial Strength Rating of A or higher, with a Financial Size Category of VII or higher.

**END OF PROPOSAL BOND FORM**

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**GEORGIA SECURITY & IMMIGRATION COMPLIANCE (GSIC) AFFIDAVITS**

**COMPANY NAME:** \_\_\_\_\_

**GEORGIA SECURITY & IMMIGRATION COMPLIANCE (GSIC) AFFIDAVIT**

The THOMSON MCDUFFIE DEVELOPMENT AUTHORITY and Contractor agree that compliance with the requirements of O.C.G.A. § 13-10-91, as amended, and Rule 300-10-1-.02 of the Rules of the Georgia Department of Labor are conditions of this Agreement for the physical performance of services.

The Contractor further agrees that its compliance with the requirements of O.C.G.A. § 13-10-91, as amended, and DOL Rule 300-10-1-.02 is attested to on the executed Contractor Affidavit and Agreement attached hereto.

If employing or contracting with any subcontractor(s) in connection with this Agreement, Contractor further agrees:

- (1) To secure from the subcontractor(s) an affidavit attesting to the subcontractor's compliance with O.C.G.A. § 13-10-91, as amended, and DOL Rule 300-10-1-.02; such affidavit being in the form attached hereto; and
- (2) To submit such subcontractor affidavit(s) to the County when the subcontractor(s) is retained, but in any event, prior to the commencement of work by the subcontractor(s).

The failure of Contractor to supply the affidavit of compliance at the time of execution of this Agreement and/or the failure of Contractor to continue to satisfy the obligations of O.C.G.A. § 13-10-91, as amended, and DOL Rule 300-10-1-.02 as set forth in this Agreement throughout the contract period shall constitute a material breach of the contract. Upon notice of such breach, Contractor shall be entitled to cure the breach within ten days, upon providing satisfactory evidence of compliance with the terms of this Agreement and State law. Should the breach not be cured, Oconee County shall be entitled to all available remedies, including termination of the contract and damages.

*SEE AFFIDAVITS ON FOLLOWING PAGES*

**GEORGIA SECURITY & IMMIGRATION COMPLIANCE (GSIC) AFFIDAVITS**

**COMPANY NAME:** \_\_\_\_\_

**CONTRACTOR AFFIDAVIT & AGREEMENT**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, as amended, stating affirmatively that the individual, firm or corporation which is contracting with Athens Housing Authority, has registered and is participating in a federal work authorization program\* [an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the provisions established in O.C.G.A. § 13-10-91, as amended.

The undersigned further agrees that should it employ any new employees or contract with any subcontractor(s) for the physical performance of services pursuant to the contract with THOMSON MCDUFFIE DEVELOPMENT AUTHORITY, the Contractor will secure from the subcontractor(s) verification of compliance with O.C.G.A. § 13-10-91, as amended, on the attached Subcontractor Affidavit. The undersigned contractor further agrees to use the federal work authorization program throughout the contract period and to maintain records of such compliance and to provide a copy of each such verification to Oconee County Board of Commissioners, at the time the subcontractor(s) is retained to perform such services.

\_\_\_\_\_  
EEV / Basic Pilot Program\* User  
Identification Number

\_\_\_\_\_  
Date of Authorization for Program

\_\_\_\_\_  
BY: Authorized Officer or Agent  
[Contractor Name]

\_\_\_\_\_  
Date of execution of Affidavit

\_\_\_\_\_  
Title of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE  
\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires:

(Seal)

*As of the effective date of O.C.G.A. § 13-10-91, the applicable federal work authorization program is the "EEV / Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau (USCIS) of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).*

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**GEORGIA SECURITY & IMMIGRATION COMPLIANCE (GSIC) AFFIDAVITS**

---

**COMPANY NAME:** \_\_\_\_\_

**SUBCONTRACTOR AFFIDAVIT & AGREEMENT**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, as amended, stating affirmatively that the individual, firm or corporation which is contracting with the THOMSON MCDUFFIE DEVELOPMENT AUTHORITY, has registered and is participating in a federal work authorization program\* [an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the provisions established in O.C.G.A. § 13-10-91, as amended.

\_\_\_\_\_  
EEV / Basic Pilot Program\* User  
Identification Number

\_\_\_\_\_  
Date of Authorization for Program

\_\_\_\_\_  
BY: Authorized Officer or Agent  
[Subcontractor Name]

\_\_\_\_\_  
Date of execution of Affidavit

\_\_\_\_\_  
Title of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE  
\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires:  
\_\_\_\_\_

(Seal)

---

*\*As of the effective date of O.C.G.A. § 13-10-91, the applicable federal work authorization program is the "EEV / Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau (USCIS) of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).*

**GEORGIA SECURITY & IMMIGRATION COMPLIANCE (GSIC) AFFIDAVITS**

**COMPANY NAME:** \_\_\_\_\_

By executing this affidavit under oath, as an applicant for a contract or other public benefit administered through the THOMSON MCDUFFIE DEVELOPMENT AUTHORITY, as referenced in the Georgia Security and Immigration Compliance Act (O.C.G.A. § 50-36-1, as amended), I am stating the following with respect to my application for such contract or other public benefit.

\_\_\_\_\_ **I am a United States citizen**

OR

\_\_\_\_\_ **I am a legal permanent resident 18 years of age or older or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States.\***

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
\*Alien registration number for non-citizens

SUBSCRIBED AND SWORN BEFORE ME ON  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

\*Note: O.C.G.A. § 50-36-1(e)(2) requires that aliens under the federal Immigration and nationality Act, Title 8 U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the federal definition of "alien", legal permanent residents must also provide their alien registration number

\*\*\*\*\*

PLEASE INDICATE THE DOCUMENT VERIFYING YOUR RESIDENCY STATUS AND ATTACH A COPY OF THE DOCUMENT (front and back)

- |   |  |
|---|--|
| <input type="checkbox"/> I-327 (Reentry Permit)                     | <input type="checkbox"/> Machine Readable Immigrant Visa   |
| <input type="checkbox"/> I-551 (Permanent Resident Card)            | <input type="checkbox"/> Temporary I-551 Stamp (on passport or I-94)                             |
| <input type="checkbox"/> I-571 (Refugee Travel Document)            | <input type="checkbox"/> I-94 (Arrival/Departure Record)   |
| <input type="checkbox"/> I-688 (Temporary Resident Card)            | <input type="checkbox"/> Unexpired Foreign Passport  |
| <input type="checkbox"/> I-688A (Employment Authorization Card)     | <input type="checkbox"/> I-20 (Certificate of Eligibility for Nonimmigrant (F-1) Student Status) |
| <input type="checkbox"/> I-688B (Employment Authorization Document) | <input type="checkbox"/> DS2019 (Certificate of Eligibility for Exchange Visitor (J-1) Status)   |
| <input type="checkbox"/> I-766 (Employment Authorization Card)      | <input type="checkbox"/> Other (Use Document Description)  |
| <input type="checkbox"/> Certificate of Citizenship                 |  |
| <input type="checkbox"/> Naturalization Certificate                 |  |

\_\_\_\_\_  
Entity for which Applicant has applied

**CORPORATE CERTIFICATE**

**COMPANY NAME:** \_\_\_\_\_

**CORPORATE CERTIFICATE**

I, \_\_\_\_\_, certify that I am the Secretary of the corporation named as Contractor in the foregoing proposal; that

\_\_\_\_\_ who signed said proposal in behalf of the Contractor was then

\_\_\_\_\_ of said corporation; that said proposal was duly signed for and in behalf of said corporation by authority of its Board of Directors, and is within the scope of its corporate powers; that said corporation is organized under the laws of the state of \_\_\_\_\_.

\_\_\_\_\_  
*Corporate Secretary's Signature*

\_\_\_\_\_  
*Date*

*Subscribed and sworn to before me this*

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
*Notary Public Signature*

\_\_\_\_\_, 20\_\_\_\_\_  
*My Commission Expires*

**(Seal)**

**END OF SECTION**

## Section 00450 - 1

# PARTNERSHIP CERTIFICATE

**COMPANY NAME:** \_\_\_\_\_

# PARTNERSHIP CERTIFICATE

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me personally, did execute the above instrument and who, being by me first duly sworn, did depose and say that he or she is a general partner in the firm of \_\_\_\_\_ and that said firm consists of himself or herself and \_\_\_\_\_ and that he or she executed the forgoing instrument on behalf of said firm for the uses and purposes stated therein, and that no one except the above named members of the firm have any financial interest whatsoever in said proposed contract.

---

Partner (print)

---

Partner (signature)
Date

---

Partner (print)

---

Partner (signature)	Date
---------------------	------

---

Partner (print)

---

Partner (signature)
Date

\_\_\_\_\_  
Notary Public Signature

\_\_\_\_\_, 20\_\_\_\_  
My Commission Expires

*(Seal)*

Note: If only one partner signs, a Power of Attorney executed by all other partners authorizing him or her to act in the name of the company must be attached; otherwise, all partners must sign.

**END OF SECTION**

**NONCOLLUSION AFFIDAVIT OF PRIME OFFEROR**

**COMPANY NAME:** \_\_\_\_\_

**NONCOLLUSION AFFIDAVIT OF PRIME BIDDER**

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

\_\_\_\_\_, being first duly sworn, deposes and says that:

1. He or she is \_\_\_\_\_  
of \_\_\_\_\_, the offeror that has submitted the attached Proposal;
2. He or she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;
3. Such Proposal is genuine and is not a collusive or sham Proposal;
4. Neither the said Offeror nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including the affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Offeror, firm or person to submit a collusive or sham Proposal in connection with such Contract or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Offeror, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Athens Housing Authority or any person interested in the proposed Contract; and
5. The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Offeror or any of its agents, representatives, owners, employees, or parties in the interest, including this affiant.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Subscribed and sworn to before me this*

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
*Notary Public Signature*

\_\_\_\_\_, 20\_\_\_\_

*My Commission Expires*

**(Seal)**

**END OF NONCOLLUSION AFFIDAVIT OF PRIME OFFEROR**

PRELIMINARY SUBCONTRACTOR LISTING

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

**PRELIMINARY SUBCONTRACTOR LISTING**

1. Pursuant to proposal requirements for the work titled:

**STONE INDUSTRIAL PARK PHASE A**

2. Names of subcontractors from whom quotes, proposals, bids, or other information used to build the Proposal were obtained or who may be considered by the offeror for subletting, should be listed and **included with the Proposal.**

**Portion of the Work:**

**Subcontractor Name & Address:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

USE ADDITIONAL SHEETS  
IF REQUIRED

**Offeror:** \_\_\_\_\_

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

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

**PROVIDE SIGNATURE IDENTICAL TO THAT SHOWN ON THE PROPOSAL FORM**

**END OF SECTION**

**SUBSTITUTION LISTING**

**Company Name:** \_\_\_\_\_

**SUBSTITUTION LISTING**

1. Pursuant to proposal requirements for the work titled:

**STONE INDUSTRIAL PARK PHASE A**

2. The Contract Sum proposed by the undersigned on the proposal form is for the work as shown on the drawings, described in the Specifications, and otherwise defined in the Contract Documents. However, the undersigned proposes the following substitutions for the Owner's consideration. Should the Owner accept any or all of the proposed substitutions, the offeror's proposed Contract Sum will be reduced by the amount shown:

<b><u>Specified Item, Product, or Material</u></b>	<b><u>Proposed Substitution</u></b>	<b><u>Proposed Reduction in Contract Sum</u></b>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

**Offeror:** \_\_\_\_\_

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

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

**PROVIDE SIGNATURE IDENTICAL TO THAT SHOWN ON THE PROPOSAL FORM**

**END OF SECTION**

# Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

► Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.  <input type="checkbox"/> Individual/sole proprietor or single-member LLC  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.  <input type="checkbox"/> Other (see instructions) ►	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any) _____  Exemption from FATCA reporting code (if any) _____  <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
	6 City, state, and ZIP code	
7 List account number(s) here (optional)		

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number								
				-				
or								
Employer identification number								
				-				

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ►	Date ►
-----------	----------------------------	--------

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a) 11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a) J—

A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.**

You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.**

You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor <sup>*</sup>
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

**\*Note:** The grantor also must provide a Form W-9 to trustee of trust.

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records From Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.**

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

**COMPANY NAME:** \_\_\_\_\_**SUBCONTRACTOR LISTING**

Pursuant to proposal requirements for the work titled:

**STONE INDUSTRIAL PARK PHASE A**

Upon request of Owner the following is to be completed and returned to the **Project Manager** within **3 days** after the Bid opening.

The undersigned proposes to use the following subcontractors. Except as otherwise approved by the Owner, the undersigned proposes to perform all other portions of the Work with own force.

**1. Subcontractor Name & Address:**

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**Portion of the Work:**

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**Background and Experience, previous projects of this type work:**

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**Employee/Experience:**

Position	Years Experience	Position	Years Experience
Position	Years Experience	Position	Years Experience

**Equipment owned/leased for this project:**

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**COMPANY NAME:** \_\_\_\_\_

**2. Subcontractor Name & Address:**

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

**Portion of the Work:**

\_\_\_\_\_

**Background and Experience, previous projects of this type work:**

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

**Employee/Experience:**

\_\_\_\_\_  
Position Years Experience

\_\_\_\_\_  
Position Years Experience

\_\_\_\_\_  
Position Years Experience

\_\_\_\_\_  
Position Years Experience

**Equipment owned/leased for this project:**

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

**3. Subcontractor Name & Address:**

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

**Portion of the Work:**

\_\_\_\_\_

**Background and Experience, previous projects of this type work:**

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

**COMPANY NAME:** \_\_\_\_\_

**Employee/Experience:**

Position	Years Experience	Position	Years Experience
Position	Years Experience	Position	Years Experience

**Equipment owned/leased for this project:**

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**4. Subcontractor Name & Address:**

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**Portion of the Work:**

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**Background and Experience, previous projects of this type work:**

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**Employee/Experience:**

Position	Years Experience	Position	Years Experience
Position	Years Experience	Position	Years Experience

**Equipment owned/leased for this project:**

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**COMPANY NAME:** \_\_\_\_\_

**5. Subcontractor Name & Address:**

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

**Portion of the Work:**

\_\_\_\_\_

**Background and Experience, previous projects of this type work:**

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

**Employee/Experience:**

Position	Years Experience	Position	Years Experience
Position	Years Experience	Position	Years Experience

**Equipment owned/leased for this project:**

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

USE ADDITIONAL SHEETS

IF REQUIRED

**Offeror:** \_\_\_\_\_

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

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

**PROVIDE SIGNATURE IDENTICAL TO THAT SHOWN ON THE PROPOSAL FORM**

**END OF SECTION**

**NONCOLLUSION AFFIDAVIT OF PRIME OFFEROR**

**COMPANY NAME:** \_\_\_\_\_

**NONCOLLUSION AFFIDAVIT OF SUBCONTRACTOR**

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

\_\_\_\_\_, being first duly sworn, deposes and says that:

1. He or she is \_\_\_\_\_  
of \_\_\_\_\_, the offeror that has submitted the attached Proposal;
2. He or she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;
3. Such Proposal is genuine and is not a collusive or sham Proposal;
4. Neither the said Offeror nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including the affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Offeror, firm or person to submit a collusive or sham Proposal in connection with such Contract or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Offeror, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Thomson McDuffie Development Authority or any person interested in the proposed Contract; and
5. The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Offeror or any of its agents, representatives, owners, employees, or parties in the interest, including this affiant.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Subscribed and sworn to before me this*

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
*Notary Public Signature*

\_\_\_\_\_, 20\_\_\_\_

*My Commission Expires*

**(Seal)**

**END OF NONCOLLUSION AFFIDAVIT OF PRIME OFFEROR**

CONTRACTOR'S LICENSE CERTIFICATION

**CONTRACTOR'S LICENSE CERTIFICATION**

Offeror's/Contractor's Company Name: \_\_\_\_\_

List license(s) required to perform Work associated with this project.

1. Georgia Contractor's License Type: \_\_\_\_\_

License Number: \_\_\_\_\_

Expiration Date of License: \_\_\_\_\_

2. Georgia Contractor's License Type: \_\_\_\_\_

Georgia Contractor's License Number: \_\_\_\_\_

Expiration Date of License: \_\_\_\_\_

3. Georgia Contractor's License Type: \_\_\_\_\_

Georgia Contractor's License Number: \_\_\_\_\_

Expiration Date of License: \_\_\_\_\_

I certify that the above information is true and correct and that the classification noted is applicable to the Proposal for this Project.

Offeror: \_\_\_\_\_

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

*(name signed)*

\_\_\_\_\_  
*(name printed or typed)*

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

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

**END OF CONTRACTOR'S LICENSE CERTIFICATION**

**PROJECT MANAGER QUALIFICATIONS**

**COMPANY NAME:** \_\_\_\_\_

**PROJECT:** \_\_\_\_\_

The undersigned offeror proposes to use the following person in the role of Project Manager for the Project:

NAME \_\_\_\_\_ POSITION \_\_\_\_\_

Length of time with company \_\_\_\_\_

Length of time in this field of work \_\_\_\_\_

Length of time in current position \_\_\_\_\_

**LICENSES, CERTIFICATIONS, SCHOOLS, DEGREES:**

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

**BACKGROUND AND EXPERIENCE, PREVIOUS PROJECTS OF THIS TYPE:**

Project: \_\_\_\_\_

Type of work: \_\_\_\_\_ Duration: \_\_\_\_\_

Responsibilities: \_\_\_\_\_

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

Project: \_\_\_\_\_

Type of work: \_\_\_\_\_ Duration: \_\_\_\_\_

Responsibilities: \_\_\_\_\_

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

USE ADDITIONAL SHEETS

IF REQUIRED

**Offeror:** \_\_\_\_\_

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

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

**PROVIDE SIGNATURE IDENTICAL TO THAT SHOWN ON THE PROPOSAL FORM**

**END OF SECTION**

**PROJECT SUPERINTENDENT QUALIFICATIONS**

**COMPANY NAME:** \_\_\_\_\_

**PROJECT:** \_\_\_\_\_

The undersigned offeror proposes to use the following person in the role of Project Superintendent for the Project:

NAME \_\_\_\_\_ POSITION \_\_\_\_\_

Length of time with company \_\_\_\_\_

Length of time in this field of work \_\_\_\_\_

Length of time in current position \_\_\_\_\_

**LICENSES, CERTIFICATIONS, SCHOOLS, DEGREES:**

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

**BACKGROUND AND EXPERIENCE, PREVIOUS PROJECTS OF THIS TYPE:**

Project: \_\_\_\_\_

Type of work: \_\_\_\_\_ Duration: \_\_\_\_\_

Responsibilities: \_\_\_\_\_

\_\_\_\_\_

Project: \_\_\_\_\_

Type of work: \_\_\_\_\_ Duration: \_\_\_\_\_

Responsibilities: \_\_\_\_\_

\_\_\_\_\_

USE ADDITIONAL SHEETS

IF REQUIRED

**Offeror:** \_\_\_\_\_

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

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

**PROVIDE SIGNATURE IDENTICAL TO THAT SHOWN ON THE PROPOSAL FORM**

**END OF SECTION**

**CD-ROM SUBMITTAL INSTRUCTIONS**

**CD-ROM – Attach One (1) CD-ROM** containing the MANDATORY/RESPONSIVE and the SUPPLEMENTARY/RESPONSIBLE DOCUMENTS. Must be submitted TO Project Manager within **five (5) working days** of the RFP opening by the apparent low offeror. The CD-ROM should be in PDF format and labeled on the CD with the Company name, address, telephone number, and the Proposal Title and Number.

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**END OF SECTION**

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TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

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**TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS**

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## TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

**AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR  
CONSTRUCTION CONTRACT**

This Agreement is by and between **Thomson McDuffie Development Authority**, a body corporate and politic and a political subdivision of the State of Georgia (hereinafter called the Owner) and

\_\_\_\_\_ (hereinafter called the Contractor) doing

business as \_\_\_\_\_ (an Individual, a Partnership or a Corporation)

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

**ARTICLE 1 - THE PROJECT**

1.01 **STONE INDUSTRIAL PARK PHASE A**, (herein-after called the Project)

**ARTICLE 2 – WORK DESCRIPTION**

2.01 Scope of Work

Project consists furnishing all superintendence, skilled and unskilled labor, materials, equipment, services and all other necessary items for work of:

This is a Construction Manager / General Contractor At-Risk project with a Guaranteed Maximum Price.

The Project generally consists of demolition of six (6) multi-family buildings, abatement of any hazardous material, building demolition permitting, lawful disposal of demolished materials, demolition of approximately 52,000 sf of parking areas and sidewalks, existing underground utilities, existing overhead utilities, coordination with underground and overhead utility owners, installation of temporary utilities, pad grading of the site, grading of the proposed stormwater management facility, installation of required erosion and sediment control measures, perimeter site safety fencing, traffic control and the means and methods required to accomplish the scope of work included in these bid documents..

Upon award of the proposal, the contractor will provide Pre-Construction Services in aide of the Engineer to assist in providing constructability and value engineered solutions and participating in the permitting of the project.

**ARTICLE 3 – CONTRACT TIMES**

3.01 Time of the Essence

- A. All Contract Times and/or time limits as defined below or as may be stated elsewhere in the Contract Documents are of the essence and are an essential element of this Contract.

3.02 Time for Completion

The Contractor shall commence actual physical work on the Project within **ten (10) calendar days** of the date of the Notice to Proceed. The Contractor shall complete the work of the project ready for use not later than the number of calendar days as set forth below.

1. **Substantial Completion:** Work of **Stone Industrial Park Phase A** shall commence within **ten (10) calendar days** of the date of Notice to Proceed. **Substantial Completion** of all the Work shall be achieved as agreed by the Owner and GC/GM.
2. **Final Completion:** Final completion of all the Work including Corrective Work shall be achieved within **30 calendar days** from certified Substantial Completion.

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TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

## 3.03 Liquidated Damages

Contractor and Owner recognize that time is of the essence and is an essential element of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified above, plus any extensions thereof allowed in accordance with the General Conditions. The parties also recognize the delays, expense, and difficulties involved in legally proving the true value of the damages which the Owner will sustain by failure of the Contractor to complete the Work on time.

Substantial Completion - Accordingly, instead of requiring any such proof, Owner and Contractor agree that in the event that the work to be done under this Contract is not substantially completed within the time specified (and such additional extension of time as the Owner may have granted), the Owner will retain from the compensation otherwise to be paid to the Contractor, including progress payments, the sum of \$5,000.00 for each additional day required to bring the work to substantial completion.

Substantial completion is achieved when all items of work are completed in accordance with the Contract Documents, so that the project can be safely, conveniently and beneficially utilized for the purposes for which it is intended.

Final Completion - After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times or any proper extension thereof granted by Owner, the Owner will retain from the compensation otherwise to be paid to the Contractor, including progress payments, the sum of \$2,00.00 for each additional day required to bring the work to Final Completion.

Final Completion is achieved when all corrective or punch list work is complete and the project is totally and completely capable of being utilized for the purposes for which is intended.

These fixed liquidated damages, as stated above, are established not as a penalty but are calculated and agreed upon in advance by the Owner and the Contractor due to the uncertainty and impossibility of making a determination as to the actual and consequential damages incurred by the Owner as a result of the failure on the part of the Contractor to complete the Work on time. The parties agree that the stipulated sum is a reasonable estimate of the probable loss by Owner. Such liquidated damages referred to herein are intended to be and are cumulative and shall be in addition to every other remedy now or hereafter enforceable at law, in equity, by statute, or under the Contract.

**ARTICLE 4 – CONTRACT PRICE**

4.01 The Owner hereby agrees to pay to the Contractor for the faithful performance of this Contract Agreement, subject to additions and deductions as provided in the Specifications and Proposal, in lawful money of the United States of America, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) which sum shall also pay for loss or damage arising out of the nature of the Work aforesaid, or from the action of the elements, or from unforeseen obstructions or difficulties encountered in the prosecution of the Work, and for all expenses incurred by, or in consequence of the Work, its suspension or discontinuance and for well and faithfully completing the Work and the whole thereof, as herein provided, and for replacing defective work or products for a period of one year after completion. 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 Paragraph 4.01A below:

- A. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated on the Proposal Form. As provided in the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Owner as provided in the General Conditions.

**ARTICLE 5 – PAYMENT PROCEDURES**

## 5.01 Submittal and Processing of Payments; Retention

- A. Contractor shall submit Applications for Progress Payments and Owner shall make Progress Payments in accordance with Article 14 of General Conditions.
- B. Retention: The Owner will retain ten percent (10%) of the value of all Work satisfactorily completed, including stored materials from each properly certified Application for Payment throughout the project.

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TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

1. No form of collateral in lieu of cash will be acceptable as retention.
  2. Amounts retained by the Contractor from payments due to suppliers and subcontractors (expressed as a percentage) shall not exceed that being retained by the Owner.
  3. Upon completion of all work of Phase I of the Project, owner shall pay Contractor 80% of retention thus far withheld.
- C. All prior certificates or estimates upon which payments have been made are approximate only, and subject to correction by subsequent estimates and/or in the final payment.
- D. In the event of a conflict, O.C.G.A. Sections 13-10-80 through 13-10-83 shall supersede and control any provisions to the contrary in this Article 5.

## 5.02 Final Payment

- A. Final Payment will be made in accordance with Article 14.07 of the General Conditions and upon final completion and acceptance of the Work by the Owner.

**ARTICLE 6 – CONTRACTOR’S REPRESENTATIONS**

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

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TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

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**ARTICLE 7 – CONTRACT DOCUMENTS**

## 7.01 Contents

- A. The Contract Documents which comprise the entire agreement between the Owner and the Contractor concerning the Work consist of the following:
- 1) The Invitation for Proposal, Overview and Procedures
  - 2) Proposal Submittal Instructions
  - 3) This Agreement
  - 4) The General Conditions
  - 5) The Special Conditions
  - 6) The Specifications
  - 7) Documentation submitted by Contractor after Notice of Award
    - a) The Performance Bond
    - b) The Payment Bond
    - c) Insurance Certification
  - 8) Contractor's Proposal
  - 9) Addenda issued and as acknowledged in the Proposal Documents
  - 10) The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
    - a) Notice to Proceed
    - b) The Drawings issued with Notice to Proceed
    - c) Work Change Directives
    - d) Change Order(s)
- B. The documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The terms and conditions of said Contract Documents are incorporated herein by reference and made a part hereof as though fully set forth herein.
- E. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

**ARTICLE 8 – MISCELLANEOUS**

## 8.01 Additional Bonds

- A. If, at any time after the execution of this Agreement and the surety bonds hereto attached for its faithful performance, the Owner shall deem the surety or sureties upon such bonds to be unsatisfactory, or if for any such reason such bond shall become inadequate to cover the performance of the Work, the Contractor shall at no additional expense to the Owner, within five (5) days after receipt of notice from the Owner to do so, furnish an additional bond or bonds in such form and amount and with such surety or sureties as shall be satisfactory to the Owner. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security shall have been furnished in a manner and form satisfactory to the Owner.

## 8.02 Indemnities of the Contractor

- A. The various indemnities of the Contractor contained in the Contract Documents indemnifying the Owner from liability for damages to persons or property caused by acts, omissions, or defaults in the performance of the Contract Documents shall have a monetary limitation of the larger of the following: \$1,000,000.00 or the entire amount of the Contract.

## 8.03 Assignment of Contract

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TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

- 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.

## 8.04 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.

## 8.05 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.

## 8.06 Warranty

- A. The Contractor agrees to warrant and correct any defective or faulty work or material that may appear within (1) one year after completion and final acceptance of the work. The Contractor further agrees to maintain a valid payment and performance bond with liability equal to 25 percent of the contract price for this same one-year period.

## 8.07 MBE/WBE/Section 3

- A. The Contractor agrees to make a good faith effort to achieve MBE/WBE/Section 3 subcontractor participation goals. The MBE/WBE goals for this project will be to endeavor to attain 20% participation by qualifying MBE subcontractors, 5% participation by qualifying WBE subcontractors, and 5% participation by qualifying Section 3 subcontractors. The contractor shall provide detail reporting evidencing (i) the methods used to solicit and/or to meet with MBE/WBE/Section 3 contractors (ii) the names and contract fields of MBE/WBE/Section 3 contractors that were contacted, solicited and deemed qualified for construction of all or a portion of the construction activity within the budget allocated for such construction activity, (iii) the names and contract fields of MBE/WBE/Section 3 contractors that were contacted and/or solicited and deemed unqualified for construction of all or a portion of the construction activity within the budget for such contract activity and the reasons why they failed to qualify. The report should include a list of MBE/WBE/Section 3 contracts awarded for the construction contract including the dollar amount of each contract.

The terms of this contract prevail over any conflicting provisions in the other contract documents.

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TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

IN WITNESS WHEREOF, Owner and Contractor have executed this Contract Agreement under their respective seals on the day and date first above written in four (4) counterparts each of which shall, without proof or accounting for the other counterparts, be deemed an original Contract.

This Agreement executed in Athens-Clarke County, Georgia will be effective on \_\_\_\_\_, 20\_\_\_\_\_  
(Effective Date of the Agreement).

APPROVED AS TO FORM

By: \_\_\_\_\_  
Thomson McDuffie Development Authority’s Attorney

OWNER: THOMSON MCDUFFIE DEVELOPMENT AUTHORITY

By: \_\_\_\_\_  
*(name signed)*

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

Attest: \_\_\_\_\_  
*(name signed)*

Title: \_\_\_\_\_  
(SEAL)

CONTRACTOR: \_\_\_\_\_

By: \_\_\_\_\_  
*(name signed)*

*(name printed or typed)*  
Title: \_\_\_\_\_

Address: \_\_\_\_\_

Attest: \_\_\_\_\_  
*(name signed)*

*(name printed or typed)*  
Title: \_\_\_\_\_

(SEAL)

Note: If the Contractor is a corporation, the Contract Agreement shall be signed by the president, attested by the secretary and the corporate seal affixed. If the Contractor is a partnership, the Contract Agreement shall be signed in the partnership name by one of the partners, with indication that he or she is a general partner.

## TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

## PERFORMANCE BOND

STATE OF GEORGIA

BOND NO. \_\_\_\_\_

COUNTY OF CLARKE

KNOW ALL MEN BY THESE PRESENTS, that we, \_\_\_\_\_ as Principal, (hereinafter known as Contractor), and we, \_\_\_\_\_, as Surety, do hereby acknowledge ourselves indebted and firmly bound and held unto the Thomson McDuffie Development Authority for use and benefit of those entitled thereto, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment of which will and truly to be made, in lawful money of the United States of America, we do hereby bind ourselves, successors, assigns, heirs and personal representatives.

BUT THE CONDITION OF THE FOREGOING OBLIGATION OR BOND IS THIS:

WHEREAS, the Owner has engaged the said Contractor for the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for construction of the STONE INDUSTRIAL PARK PHASE A as more fully appears in a written Contract Agreement bearing the date of, \_\_\_\_\_ 20\_\_\_\_, a copy of which Contract Agreement is by reference hereby made a part hereof.

NOW, THEREFORE, if said Contractor shall fully and faithfully perform all the undertakings and obligations under the said Contract Agreement hereinbefore referred to and shall fully indemnify and save harmless the said Owner from all costs and damage whatsoever which it may suffer by reason of any failure on the part of said Contractor to do so, and shall fully reimburse and repay the said Owner any and all outlay and expense which it may incur in making good any such default, and shall correct all defects in products and workmanship appearing within one year of the completion of all Work, then this obligation shall be null and void, otherwise, it shall remain in full force and effect.

And for value received it is hereby stipulated and agreed that no change, extension of time, alteration or addition to the terms of the said Contract Agreement, or in the Work to be performed thereunder, or the Specifications accompanying the same shall in any wise affect the obligations under this Contract Agreement or Bond, and notice is hereby waived of any such damage, extension of time, alteration or addition to the terms of the Contract Agreement or to the Work or to the Contract Documents.

This bond is given pursuant to and in accordance with the provisions of O.C.G.A. Section 36-91-1 *et seq.* and all the provisions of the law referring to this character of Bond as set forth in said Sections or as may be hereinafter enacted, and these are hereby made a part hereof to the same extent as if set out herein in full.



## TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

**PAYMENT BOND**

STATE OF GEORGIA

BOND NO. \_\_\_\_\_

COUNTY OF CLARKE

KNOW ALL MEN BY THESE PRESENTS, that we, \_\_\_\_\_ as Principal, (hereinafter known as Contractor), and we, \_\_\_\_\_, as Surety, do hereby acknowledge ourselves indebted and firmly bound and held unto the Thomson McDuffie Development Authority for use and benefit of those entitled thereto, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment of which will and truly to be made, in lawful money of the United States of America, we do hereby bind ourselves, successors, assigns, heirs and personal representatives.

BUT THE CONDITION OF THE FOREGOING OBLIGATION OR BOND IS THIS:

WHEREAS, the Owner has engaged the said Contractor for the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for construction of the **STONE INDUSTRIAL PARK PHASE A** as more fully appears in a written Contract Agreement bearing the date of, \_\_\_\_\_ 20\_\_\_\_, a copy of which Contract Agreement is by reference hereby made a part hereof.

NOW, THEREFORE, if said Contractor shall fully and faithfully perform all the undertakings and obligations under the said Contract Agreement hereinbefore referred to and shall fully indemnify and save harmless the said Owner from all costs and damage whatsoever which it may suffer by reason of any failure on the part of said Contractor to do so, and shall fully reimburse and repay the said Owner any and all outlay and expense which it may incur in making good any such default, and shall correct all defects in products and workmanship appearing within one year of the completion of all Work, then this obligation shall be null and void, otherwise, it shall remain in full force and effect.

And for value received it is hereby stipulated and agreed that no change, extension of time, alteration or addition to the terms of the said Contract Agreement, or in the Work to be performed thereunder, or the Specifications accompanying the same shall in any wise affect the obligations under this Contract Agreement or Bond, and notice is hereby waived of any such damage, extension of time, alteration or addition to the terms of the Contract Agreement or to the Work or to the Contract Documents.

This bond is given pursuant to and in accordance with the provisions of O.C.G.A. Section 36-91-1 *et seq.* and all the provisions of the law referring to this character of Bond as set forth in said Sections or as may be hereinafter enacted, and these are hereby made a part hereof to the same extent as if set out herein in full.

## TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

IN WITNESS WHEREOF, the said Contractor has hereunder affixed its signature and seal, and said Surety has hereunto caused to be affixed its corporate signature and seal, by its duly authorized officers, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, executed in four (4) counterparts.

CONTRACTOR – PRINCIPAL: \_\_\_\_\_

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

*(name signed)*

\_\_\_\_\_  
*(name printed or typed)*

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

Address: \_\_\_\_\_

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

*(name signed)*

\_\_\_\_\_  
*(name printed or typed)*

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

(SEAL)

SURETY: \_\_\_\_\_

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

*(name signed)*

\_\_\_\_\_  
*(name printed or typed)*

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

Address: \_\_\_\_\_

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

*(name signed)*

\_\_\_\_\_  
*(name printed or typed)*

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

(SEAL)

Note: Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the Project is located. Surety and Insurers must have an A.M. Best Financial Strength Rating of A or higher, with a Financial Size Category of VII or higher.

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TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS**NONRESIDENT CONTRACTOR'S TAX BOND**

KNOW BY ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_ as Principal, and the \_\_\_\_\_ hereinafter designated as Surety or Sureties, are held and firmly bound, both "jointly and severally" as well as "severally" only, unto the Thomson McDuffie Development Authority in the penal sum of ten percent of the Original Contract Amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the use of the State and all political subdivisions thereof for all taxes (including contributions due under the employment security law), together with penalties and interest collectible as taxes, which may accrue during the period of this bond on account of the execution and performance of this contract hereinafter described; provided, that it is mutually understood and agreed between the Principal and Surety and the Obligees herein named that this bond is to be construed as being in compliance with and subject of the provisions of Sections 48-13-30 through 48-13-38 of the Official Code of Georgia Annotated, as well as the other applicable provisions, and that in compliance with the aforesaid sections this instrument is intended to be construed as the "tax bond" in the amount of ten percent of the full penal sum heretofore named.

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TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

**NONRESIDENT CONTRACTOR'S TAX BOND (continued)**

CONTRACTOR – PRINCIPAL: \_\_\_\_\_

By: \_\_\_\_\_  
(name signed)

\_\_\_\_\_  
(name printed or typed)

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

Address: \_\_\_\_\_

Attest: \_\_\_\_\_  
(name signed)

\_\_\_\_\_  
(name printed or typed)

Title: \_\_\_\_\_  
(SEAL)

SURETY: \_\_\_\_\_

By: \_\_\_\_\_  
(name signed)

\_\_\_\_\_  
(name printed or typed)

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

Address: \_\_\_\_\_

Attest: \_\_\_\_\_  
(name signed)

\_\_\_\_\_  
(name printed or typed)

Title: \_\_\_\_\_  
(SEAL)

## TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

**CORPORATE RESOLUTION**

I, the undersigned, hereby certify that I am the Secretary of \_\_\_\_\_  
 \_\_\_\_\_ (Name of Corporation), a corporation duly  
 organized and existing under and by virtue of the laws of the State of \_\_\_\_\_; that I  
 am the keeper of the corporate records of this Corporation and that as such, I am authorized to execute this  
 certification on behalf of this Corporation; that the following is a true, correct and compared copy of a  
 resolution duly adopted and ratified at a meeting of the Board of Directors of this Corporation, duly called  
 and held on \_\_\_\_\_, in accordance with its charter and by-laws, at  
 which meeting a quorum was present and acting throughout; that said resolution has not been in any way  
 amended, annulled, modified, rescinded or revoked, but is in full force and effect.

Resolved, that the person(s) listed below is/are hereby authorized in the name of this Corporation to execute  
 Proposals and Change Orders for the Project, **STONE INDUSTRIAL PARK PHASE A** in an amount not to  
 exceed:

\$ \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

NAME (Printed)SIGNATUREPOSITION

1. \_\_\_\_\_
2. \_\_\_\_\_

I further certify that the Board of Directors of this Corporation has, and at the time of adoption of this  
 resolution had, full power and lawful authority to adopt the foregoing resolution and to confer the powers  
 granted to the persons named who have full power and lawful authority to exercise the same.

IN WITNESS WHEREOF, I hereunto subscribe my name and affixed the seal of this Corporation on this  
 \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

SEAL

\_\_\_\_\_  
Secretary

Attest:

\_\_\_\_\_  
President/Chief Executive Officer\_\_\_\_\_  
Treasurer/Chief Financial Officer

## TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

**NOTICE OF AWARD**

To: Project Description:

**Contractor** **STONE INDUSTRIAL PARK PHASE A**

The Owner has considered the Proposal submitted by you for the above-described Work in response to its Request for Proposal, dated \_\_\_\_\_, 20\_\_\_\_.

You are hereby notified that your Proposal has been accepted for items in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

You are required by the Invitation for Proposal Overview and Procedures to execute the Contract and furnish the required Contractor's Performance Bond and Payment Bond and Certificates of Insurance within **Ten (10)** calendar days from the date of receipt of this Notice by you. The required numbers of document copies accompany this Notice. Return all document copies to the Project Manager for further processing, review, and distribution to the parties to the Contract.

If you fail to execute said Contract and to furnish said Bonds within **Ten (10)** calendar days from the date of receipt of this Notice, the Owner will be entitled to consider all your rights arising out of the Owner's acceptance of your Proposal as abandoned and as a forfeiture of your Proposal Bond. The Owner will be entitled to such other rights as may be granted by law.

You are required to acknowledge and return this Notice of Award to the Owner within 3 days of receipt.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Owner: THOMSON MCDUFFIE DEVELOPMENT AUTHORITY

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

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

**ACCEPTANCE OF NOTICE**

Receipt of the above Notice of Award is hereby acknowledged by:

Contractor: \_\_\_\_\_

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

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

---

TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

**NOTICE TO PROCEED**

To:

Project Description: **THOMSON MCDUFFIE DEVELOPMENT AUTHORITY  
STONE INDUSTRIAL PARK PHASE A**

You are hereby notified to Commence Work on \_\_\_\_\_ in accordance with the attached Contract dated \_\_\_\_\_. You are to progress without delay or unavoidable interruption until work is Substantially Complete. All work shall be Substantially Complete within \_\_\_\_\_ of the official Commence Work date above. Final Completion of all work shall be achieved within \_\_\_\_\_ of certified Substantial Completion.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Owner: THOMSON MCDUFFIE DEVELOPMENT AUTHORITY

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

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

ACCEPTANCE OF NOTICE

Receipt of the above Notice To Proceed  
is hereby acknowledged by:

\_\_\_\_\_

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

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

---

TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

**THOMSON MCDUFFIE DEVELOPMENT AUTHORITY  
PROPOSAL REQUEST**

---

PROJECT:

PROPOSAL REQUEST NO:

DATE:

TO CONTRACTOR:

ORIGINAL CONTRACT DATE:

CONTRACT FOR:

PROJECT NO:

---

Please submit an itemized proposal for changes in the Contract Sum and Contract Time for proposed modifications to the Contract Documents described herein. Submit proposal within \_\_\_\_\_ days or notify the Project Manager in writing of the date on which you anticipate submitting your proposal.

THIS IS NOT A CHANGE ORDER, A CONSTRUCTION CHANGE DIRECTIVE, OR A DIRECTION TO PROCEED WITH THE WORK DESCRIBED IN THE PROPOSED MODIFICATIONS.

---

Description

*(Insert a written description of the Work.)*

Attachments:

*(List attached documents that support description.)*

---

REQUESTED BY: \_\_\_\_\_

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Printed name and title.)*

## TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

## THOMSON MCDUFFIE DEVELOPMENT AUTHORITY

## CHANGE ORDER

\*\*\*\*\*

PROJECT:

CHANGE ORDER NUMBER:

DATE:

TO CONTRACTOR:

OWNER'S PROJECT NO.:

ORIGINAL CONTRACT DATE:

CONTRACTOR FOR:

ACCOUNT THIS CHANGE ORDER:

The Contract is changed as follows:

Attachments: (List documents supporting change)

**Not valid until signed by the Owner, Project Manager and Contractor.**

The original Contract Sum was.....\$

Net change by previously authorized Change Orders.....\$

The Contract Sum prior to this Change Order was.....\$

The Contract Sum will be (increased) (decreased)

(unchanged) by this Change Order in the amount of.....\$

The new Contract Sum including this Change Order will be .....\$

The Contract Time will be (increased)(decreased)(unchanged) by (\_\_\_\_) days.

The date of Substantial Completion as of the date of this Change Order is \_\_\_\_\_.

RECOMMENDED:\_\_\_\_\_APPROVED:\_\_\_\_\_APPROVED:\_\_\_\_\_

PROJECT MANAGER\_\_\_\_\_CONTRACTOR\_\_\_\_\_OWNER\_\_\_\_\_

BY \_\_\_\_\_BY \_\_\_\_\_BY \_\_\_\_\_

DATE \_\_\_\_\_DATE \_\_\_\_\_DATE \_\_\_\_\_

SUBSCRIBED AND SWORN TO  
BEFORE ME THIS \_\_\_\_\_DAY  
OF \_\_\_\_\_, 20\_\_\_\_

ATTEST:\_\_\_\_\_

DATE:\_\_\_\_\_

\_\_\_\_\_  
*Notary Public Signature*

\_\_\_\_\_, 20\_\_\_\_

*My Commission Expires*

## TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

**THOMSON MCDUFFIE DEVELOPMENT AUTHORITY  
CERTIFICATION OF SUBSTANTIAL COMPLETION**

PROJECT:

PROJECT NO.:

TO CONTRACTOR:

CONTRACT FOR:

TO OWNER:

ORIGINAL CONTRACT DATE:

DATE OF ISSUANCE:

PROJECT OR DESIGNATED PORTION SHALL INCLUDE:

The Work performed under this Contract has been reviewed and found, to the Project Manager's best knowledge, information and belief, to be substantially complete. Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can safely occupy or utilize the Work for its intended use. The date of Substantial Completion of the Project or portion thereof designated above is hereby established as

\_\_\_\_\_  
(DATE)

A list of items to be completed or corrected is attached hereto. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

PROJECT MANAGER \_\_\_\_\_

BY

\_\_\_\_\_  
DATE

The Contractor will complete or correct the Work on the list of items attached hereto within \_\_\_\_ days from the above Date of Substantial Completion.

CONTRACTOR \_\_\_\_\_

BY

\_\_\_\_\_  
DATE

The Owner accepts the Work or designated portion thereof as substantially complete and will assume full possession thereof at (time) \_\_\_\_\_ on (date) \_\_\_\_\_.

OWNER \_\_\_\_\_

BY

\_\_\_\_\_  
DATE

The responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance shall be as follows:

OWNER: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

## TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

**CONTRACTOR'S AFFIDAVIT FOR RELEASE OF LIENS,  
PAYMENT OF DEBT & RELEASE OF CLAIMS**

State of: GEORGIA

County of: Clarke

Personally, before the undersigned officer, duly authorized to administer oaths, appeared the Affiant who upon oath deposes and says as follows:

Affiant is a member of the firm of, and officer of, \_\_\_\_\_ and has full knowledge of all and every debt and/or obligation for labor and materials which have been entered into and become a part of a certain project known and designated as \_\_\_\_\_ for Thomson McDuffie Development Authority, Clarke County, Georgia and is acting in his official capacity for the specific purpose of obtaining final payment due on this project through \_\_\_\_\_. Affiant deposes and says that all debts and lawful obligations have been paid for in full and that there are no suits or claims of any kind or character against the contractor.

Further, Affiant states that final payment will complete all contractual obligations with the exceptions of the warranty and that there are no additional claims against this contract whatsoever.

**IN WITNESS WHEREOF**, I have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Owner/General Manager

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

(SEAL)

## TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

**THOMSON MCDUFFIE DEVELOPMENT AUTHORITY  
WARRANTY RELEASE NOTICE**

PROJECT:

BID NUMBER:

TO CONTRACTOR:

CONTRACT FOR:

ORIGINAL CONTRACT DATE:

DATE OF ISSUANCE:

Per the terms of the Contract Agreement, the Contractor agreed to warrant and correct any defective or faulty Work or material of the Project that may appear within (1) one year after completion of the Work and receipt of Final Payment.

Our records indicate that Final Acceptance for this Project was made on \_\_\_\_\_. Therefore the date of \_\_\_\_\_ is considered as the effective date of the end of the one year Warranty Period for the Work.

A Final Inspection of work completed under this Contract was performed on \_\_\_\_\_.

- ☐ The Work was found satisfactory and therefore eligible for release of the Warranty. All contractual obligations of this contract will be considered as complete on \_\_\_\_\_.
- ☐ The items on the attached list were found to be unsatisfactory. The Contractor will correct the Work on the list of items attached hereto within a period of 30 days from the Date of Issuance of this Notice.

PROJECT MANAGER

BY

DATE

CONTRACTOR

BY

DATE

## TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

# THOMSON MCDUFFIE DEVELOPMENT AUTHORITY

[ ] Regular Weekly

## Weekly Erosion Control Report

[ ] 0.5 Inch Rain Event

*Inspection performed by certified personnel weekly and within 24 hours of the end of a 0.5 inch or greater rain event.*

**Project Name:** \_\_\_\_\_ **Date Inspected:** \_\_\_\_\_

**Contractor:** \_\_\_\_\_

- The Worksite Erosion Control Supervisor (WECS) must be Georgia Soil and Water Conservation Commission Level IA Certified.
- Weekly Erosion Control Report to be filled out each Thursday by WECS and returned to Clarke County Public Works Inspector.
- No work will be allowed on the project until all soil erosion control measures are to the satisfaction of the Clarke County Public Works Inspector.

Yes    No

1. [ ] [ ] Is a copy of the Erosion and Sedimentation Control Plan on site?
2. [ ] [ ] Is all sediment being contained on the job site?
3. [ ] [ ] Is all silt fence/straw bales installed properly? (Trenched and staked)
4. [ ] [ ] Does any silt fence require maintenance? (over 50% full or deteriorated)
5. [ ] [ ] Are inlet sediment traps installed properly? (Frame supports, fabric buried 12 inches deep, fastened securely)
6. [ ] [ ] Do any inlet sediment traps require maintenance? (Over 50% full, loose or failed frames)
7. [ ] [ ] Is storm drain outlet protection at all outlets?
8. [ ] [ ] Are all check dams installed properly?
9. [ ] [ ] Do any check dams require maintenance? (Over 50% full, bottom washed out)
10. [ ] [ ] Are construction exits installed properly? (underlined with a geotextile)
11. [ ] [ ] Do any construction exits require maintenance? (top dress with fresh stone)
12. [ ] [ ] Any evidence of soil on public roadway?
13. [ ] [ ] Are there any disturbed areas that are without mulch, temporary/permanent grassing?
14. [ ] [ ] Any evidence of sediment deposition in state waters?
15. [ ] [ ] Is there any evidence of petroleum/oil leaks from vehicles or equipment?
16. [ ] [ ] Are all material and petroleum product storage areas control measures in place and properly maintained?
17. [ ] [ ] Are there any additional erosion control devices (slope drain pipe, temporary weirs, etc.) required? If yes, describe.

WECS

Comments: \_\_\_\_\_

ALL CONTROLS LISTED ABOVE ARE IN PLACE AND PROPERLY MAINTAINED

WECS: \_\_\_\_\_ Date \_\_\_\_\_ GSWCC Certification # \_\_\_\_\_

**Inspector Comments:** \_\_\_\_\_

**Inspector:** \_\_\_\_\_ **Date** \_\_\_\_\_

## TYPICAL CONTRACT AND ADMINISTRATIVE DOCUMENTS

## MATERIAL SAMPLE SUBMITTAL FORM

Project:	Submittal #:
Contractor:	
For Approval <input type="checkbox"/>	Re-Submittal <input type="checkbox"/>
For Information Only <input type="checkbox"/>	

Item #	Specification/Section Reference	Description of Item
Submitted by:		Date:

## Submittal Review

Item #	Approved: Work May Proceed	Rejected: Revise Per Change Indicated Below	Reviewed By	Date

## Changes Required

Item #	Make the Following Change to the items indicated and Resubmit

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ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

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*1.01 Defined Terms*

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

GENERAL CONDITIONS

11. Contract--The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.
12. Contract Documents--Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor's submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
13. Contract Price--The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).
14. Contract Times--The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any, (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Project Manager's written recommendation of final payment.
15. Contractor--The individual or entity with whom Owner has entered into the Agreement.
16. Cost of the Work--See Paragraph 11.01.A for definition.
17. Designer – shall be an individual or entity named as such in the Agreement.
18. Drawings--That part of the Contract Documents prepared or approved by Project Manager which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
19. Effective Date of the Agreement--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
20. Project Manager--The individual or entity named as such in the Agreement.
21. Field Order--A written order issued by Project Manager which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
22. General Requirements--Sections of Division 01 of the Specifications. The General Requirements pertain to all sections of the Specifications.
23. Hazardous Environmental Condition--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

24. Hazardous Waste--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
25. Laws and Regulations; Laws or Regulations--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. Liens--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
27. Liquidated Damages – amounts shall be as stipulated in the Agreement and/or Special Conditions. Liquidated damages shall apply to the Contract Times for the Project. Liquidated Damages shall be both additive and cumulative. Liquidated Damages shall end upon Substantial Completion, Completion of the Work associated with each Milestone Date, and upon final completion of the Work.
28. Milestone--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.
29. Notice of Award--The written notice by Owner to the Successful Offeror stating that upon timely compliance by the Successful Offeror with the conditions precedent listed therein, Owner will sign and deliver the Agreement.
30. Notice to Proceed--A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.
31. Owner--The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.
32. PCBs--Polychlorinated biphenyls.
33. Petroleum--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
34. Progress Schedule--A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
35. Project--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

GENERAL CONDITIONS

36. Project Manual--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
37. Radioactive Material--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
38. Related Entity -- An officer, director, partner, employee, agent, consultant, or subcontractor.
39. Resident Project Representative--The authorized representative of Engineer who may be assigned to the Site or any part thereof.
40. Samples--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
41. Schedule of Submittals--A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.
42. Schedule of Values--A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
43. Shop Drawings--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
44. Site--Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
45. Specifications--That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
46. Subcontractor--An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
47. Substantial Completion-- The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Project Manager, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, to provide the following: (i) the Owner full time, uninterrupted, continuous operation of the Work; and (ii) all required functional, performance, and operational or startup testing has been successfully demonstrated for all components, devices, equipment, and systems to the satisfaction of the Project Manager in accordance with the

requirements of the Specifications; and (iii) all required inspections and other work necessary for the Project Manager to certify “substantially complete” have been completed. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.

48. Submittals – All administrative documents, Shop Drawings, Samples, product data, manufacturer’s literature, quality control documents, design related documents, record documents, contract close-out documents, and/or any other specified document prepared or assembled by or for Contractor and submitted by Contractor to the Owner and/or Project Manager.
49. Successful Offeror--The Offeror submitting a responsive Proposal to whom Owner makes an award.
50. Special Conditions--That part of the Contract Documents which amends or supplements these General Conditions.
51. Supplier--A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or any Subcontractor.
52. Underground Facilities--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
53. Unit Price Work--Work to be paid for on the basis of unit prices.
54. Work--The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
55. Work Change Directive--A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Project Manager ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

---

GENERAL CONDITIONS

1.02 *Terminology*

- A. The following words or terms are not defined but, when used in the Proposal Requirements or Contract Documents, have the following meaning.
- B. Intent of Certain Terms or Adjectives
  - 1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Project Manager. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Project Manager as to the Work. It is intended that such exercise of professional judgment, action or determination will be solely to evaluate, in general, the Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Project Manager any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.03 or any other provision of the Contract Documents.
- C. Day
  - 1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. Defective
  - 1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
    - a. does not conform to the Contract Documents, or
    - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents, or
    - c. has been damaged prior to Project Manager’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).
- E. Furnish, Install, Perform, Provide
  - 1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
  3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
  4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.
- F. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

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## ARTICLE 2 - PRELIMINARY MATTERS

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

- A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
1. Agreement and bonds shall not be dated when delivered to the Owner for signature. Owner will date both the bonds and Agreement with the same date when the Agreement is executed.
  2. Certified copies of Power of Attorney for the bonds must be dated prior to submittal to the Owner with a date which is within the previous **15 days**.
  3. Certified copies of Power of Attorney and bonds must each have original corporate seal of surety. Each counterpart bond shall have its own individual certified Power of Attorney.
  4. Signature of attorney-in-fact for Surety Company on bonds must be one of persons authorized to sign on certified copies of Power of Attorney.
  5. If Contractor is a corporation, Agreement and bonds must have original corporate seal of Contractor affixed, must show title of person signing on behalf of Contractor, and must be attested by Corporate Secretary or Assistant Corporate Secretary.
- B. Evidence of Insurance: Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

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*2.02 Copies of Documents*

- A. Owner will furnish to Contractor up to four printed or hard copies of the Contract Documents. Additional copies will be furnished, upon request, at the Owner's cost of reproduction.
- B. Owner may also, if requested by Contractor, furnish Contractor with one electronic copy of the Drawings and other Contract Documents. Contractor agrees it will only use the same for performing the Work and will not disseminate the same except to its subcontractors where necessary to perform the Work. Contractor shall obtain written acceptance of any subcontractor to these limitations before disseminating the same to such subcontractor. Electronic copies of the Contract Documents will be provided as a convenience to Contractor. The Owner and Project Manager assume no liability and shall be held harmless for any discrepancies between the hard copy and electronic copy of the Contract Documents

*2.03 Commencement of Contract Times; Notice to Proceed*

- A. Contract Times will commence to run on the date established in the Notice to Proceed. A Notice to Proceed may be given at any time within **60 days** after the Effective Date of the Agreement.

*2.04 Starting the Work*

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

*2.05 Before Starting Construction*

- A. Overall Project Schedule (OPS): Contractor shall submit to Project Manager for timely review:
  - 1. Submit the schedule within **ten (10) days** after date of the Notice of Award.
  - 2. The Project Manager will review the schedule and return it within **ten (10) days** after receipt.
  - 3. The Contractor will make revisions based on Project Manager's input and submit final copy at the Pre-construction Conference.

*2.06 Preconstruction Conference*

- A. A Pre-construction Conference shall be held at a Time and Place determined by the Project Manager.

**ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE**

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*3.01 Intent*

- A. The individual components of the Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to Owner.
- C. Clarifications and interpretations of the Contract Documents shall be issued by Project Manager as provided in Article 9.
- D. Where the word “similar” occurs on the Plans, it shall have a general meaning and not be interpreted as being identical, and all details shall be worked out in relation to their location and their connection with other parts of the Work.
- E. Each and every clause or other provision required by law to be inserted in these Contract Documents shall be deemed to be inserted herein, and they shall be read and enforced as though it were included herein, and if through mistake or otherwise, any such provision is not inserted, or if not correctly inserted, then upon the application of either party, the Contract Documents shall forthwith be physically amended to make such insertion.
- F. Wherever in the Contract Documents the terms “as ordered”, “as directed”, “as required”, “as allowed”, “as approved” or terms of like effect or import are used, or the adjectives “reasonable”, “suitable”, “acceptable”, “proper” or “satisfactory” or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of the Project Manager as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to the Project Manager any duty or authority to supervise or direct the furnishing or performance of Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.08 or any other provision of the Contract Documents.
- G. “Imperative” or “Command” type language is used in the Contract Documents. This command language refers to and is directed to the Contractor.
- H. All products (material or equipment) identified in the Contract Documents and all products incidental to the identified products, shall be new and unused and provided by Contractor unless specified otherwise.

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- I. Emphasis, such as italics or quotes, has been used throughout the Contract Documents. Use of emphasis shall not change the meaning of the term emphasized.”

3.02 *General Provisions*

- A. When requirements included in the Special Conditions are also included in the General Conditions, the more stringent condition shall govern.
  - 1. The Contract Documents
    - a. The Request for Proposal, the Instructions To Offerors, the Proposal, the Proposal Bond, the Notice of Award, the Contract, the Performance and Payment Bonds, the Notice to Proceed, the General Conditions, the Special Conditions, the Specifications, the Project Manual, and any Addenda which may be issued, constitute the Contract Documents.
    - b. The Contract Documents represent the entire and integrated agreement between the parties and supersede prior negotiations, representations or agreements, either written or oral.
  - 2. The Plans and Specifications
    - a. In case of conflict between requirements shown on the Plans and provisions of the Specifications, the Specifications shall take precedence over the Plans. Dimensions, shown in figures on the Plans, shall govern in case of any discrepancy between them and scaled dimensions.
    - b. The Contractor shall not take advantage of any apparent error or omission which may be found in the Plans or the Specifications, and the Project Manager shall be entitled to make such corrections therein and such interpretations thereof as he may deem necessary for the fulfillment of their intent.
    - c. The right is reserved for the Project Manager to make, from time to time, such alterations in the Plans as he may consider necessary to complete the Project to his satisfaction and consistent with the general intention of the Contract Documents.

3.03 *Reference Standards*

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

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

### *3.04 Reporting and Resolving Discrepancies*

#### *A. Reporting Discrepancies*

1. Contractor's Review of Contract Documents Before Starting Work: Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Project Manager any conflict, error, ambiguity, or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Project Manager before proceeding with any Work affected thereby.
2. Contractor's Review of Contract Documents During Performance of Work: If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, Contractor shall promptly report it to Project Manager in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.18.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

#### *B. Resolving Discrepancies*

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

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- Change Orders
- Work Change Directives
- Field Orders
- Project Manager's written interpretations and clarifications, Notice to Proceed and Addenda
- Contract Agreement
- General Conditions
- Specifications
- Special Conditions
- Drawings (Figure dimensions on Drawings shall take precedence over scale dimensions and detailed drawings shall take precedence over general drawings.)
- Proposal Requirements

*3.05 Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented and minor variations and deviations in the Work may be authorized, by one or more of the following ways:
  - 1. A Field Order;
  - 2. Project Manager's approval of a Shop Drawing or Sample; (Subject to the provisions of Paragraph 6.19.D.3); or
  - 3. Project Manager's written interpretation or clarification.

*3.06 Reuse of Documents*

- A. Contractor and any Subcontractor or Supplier or other individual or entity performing or furnishing all of the Work under a direct or indirect contract with Contractor, shall not:
  - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Project Manager or Project Manager's consultants, including electronic media editions; or
  - 2. reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Project Manager and specific written verification or adaptation by Designer.
- B. The prohibition of this paragraph will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

*3.07 Electronic Data*

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

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

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*4.01 Availability of Lands*

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

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Work upon such land and rights-of-way as Owner has acquired in accordance with the Notice to Proceed.

4.02 *Subsurface and Physical Conditions*

A. Reports and Drawings:

1. Those reports of explorations and tests of subsurface conditions at or contiguous to the Site used in preparing the Contract Documents.
2. Those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) used in preparing the Contract Documents.
3. It shall be the Contractor's responsibility to review the "Report of Geotechnical Exploration" and become familiar with the existing Subsurface and Physical Conditions at each site.
4. Technical Data for this contract is as follows:

N/A this Contract.

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

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

- A. Notice: It is the obligation of the Contractor to make his own interpretation of all subsurface data that may be available as to the nature and extent of the materials to be excavated, graded, or driven through. Such information, if available and furnished to the Contractor by the Owner, does not in any way guarantee the amount or nature of the material, which may be encountered. If Contractor believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

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

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.18.A), notify Owner and Project Manager in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

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

C. Possible Price and Times Adjustments

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

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ments to be conducted by or for Contractor prior to Contractor's making such final commitment; or

- c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
- 3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefore as provided in Paragraph 10.05. However, Owner and Project Manager, and any of their Related Entities shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

*4.04 Underground Facilities*

- A. It is understood and agreed that the Contractor has considered in his proposal all of the permanent and temporary utility appurtenances in their present location or relocated positions as shown on the Plans, and that no additional compensation will be allowed for any delays, inconvenience or damage sustained by him due to any interference from said utility appurtenances or the operation of moving them.
- B. Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Project Manager by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in these General Conditions:
  - 1. Owner and Project Manager shall not be responsible for the accuracy or completeness of any such information or data; and
  - 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
    - a. reviewing and checking all such information and data,
    - b. locating all Underground Facilities shown or indicated in the Contract Documents,
    - c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction, and
    - d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.
- C. Not Shown or Indicated
  - 1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which

was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.18.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Project Manager. Project Manager will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

2. If Project Manager concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment may be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim as provided in Paragraph 10.05.
- D. The dimensions and descriptions given on the Drawings for adjacent work by others, if any, (including any existing facilities or utilities previously constructed for Owner) are based on the design drawings and not as-built drawings. Prior to commencing the Work, the Contractor shall verify all as-built conditions and information whenever existing facilities or utilities may impact the Work. Failure of Contractor to so verify all as-built conditions prior to commencing the Work shall bar Contractor from later seeking additional compensation for conflicts with existing facilities or utilities.
- E. Prior to the construction or installation of any proposed facility or pipeline, the Contractor shall expose all existing utilities true to their vertical and horizontal location, within the vicinity of the Work. In order to avoid conflicts between existing and proposed facilities or utilities, the Contractor shall either relocate the existing or proposed utility on a temporary or permanent basis, or shall take whatever means necessary to protect the existing facilities or utilities during the installation of proposed utilities, as approved by the Project Manager. No separate payment will be made for the relocation of existing utilities or for any work associated with the protection of existing facilities or utilities.

#### *4.05 Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Project Manager's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Project Manager

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whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

- B. Project Manager may check the lines, elevations, reference marks, batter boards, etc., set by Contractor, and Contractor shall correct any errors disclosed by such check. Such a check shall not be considered as approval of Contractor's work and shall not relieve Contractor of the responsibility for accurate construction of the entire Work. Contractor shall furnish personnel to assist Project Manager in checking lines and grades.
- C. The Contractor shall review the Contract Documents and determine the presence and location of any property or rights-of-way monuments or markers, and assess the possibility of disruption to these monuments or markers. It will be the Contractor's responsibility to flag, erect guard post, or provide offset references for the protection or the re-monumentation of these property or rights-of-way monuments or markers. In the event these monuments or markers are covered over or disrupted, it will be the Contractor's responsibility to re-establish those monuments or markers of property or rights-of-way, which were present prior to Work on the project.
- D. It shall be the Contractor's responsibility to verify all reference points shown on the Contract Documents prior to beginning Work on the site. This verification shall be conducted by professionally qualified personnel in a manner which will verify the accuracy of the information shown in the Contract Documents. On projects which involve the connection to, or additions to existing structures, the elevations of these existing structures shall also be verified. Any findings which differ from those shown on the Contract Documents shall be submitted in writing to the Project Manager for resolution.
- E. Additional surveys necessary for the construction staking shall be performed by the Contractor, the cost of which shall be incorporated into the appropriate items of Work. On projects in which payment is classified by depth of cut, the construction staking shall be performed in a manner that will allow for the determination of cut classification. During construction of the project, the Contractor shall keep a daily log and record of the location of all underground pipes, all structures, and any deviation from the Drawings. The Contractor shall keep and furnish this daily log and record in a manner which will allow the Project Manager to incorporate these items into the Contract Documents.

4.06 *Hazardous Environmental Condition at Site*

- A. Reports and Drawings: Reference is made to the Paragraph 4.02.A.4 for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the Project Manager in the preparation of the Contract Documents.

- B. Limited Reliance by Contractor on Technical Data Authorized: Contractor may rely upon the general accuracy of the “technical data” contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such “technical data” is identified herein, Paragraph 4.02.A.4. Except for such reliance on such “technical data,” Contractor may not rely upon or make any claim against Owner or Project Manager, or any of their Related Entities with respect to:
1. the completeness of such reports and drawings for Contractor’s purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
  2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
  3. any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.18.A); and (3) notify Owner and Project Manager (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Project Manager concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any.
- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered to Contractor written notice: (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (2) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefore as provided in Paragraph 10.05.
- F. If after receipt of such written notice Contractor does not agree to resume such Work, based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may issue a Work Change Directive or Change Order as appropriate. If

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Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

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

**ARTICLE 5 - BONDS AND INSURANCE**

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*5.01 Performance, Payment, and Other Bonds*

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

*5.02 Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided herein. Such Surety and insurance companies shall also meet additional requirements and qualifications as provided below:
  - 1. All bonds, insurance contracts, and certificates of insurance shall be either executed by or countersigned by a licensed resident agent of the surety or insurance company having its place of business in the State of Georgia and in all ways complying with the insurance laws of the State of Georgia. Surety shall be in good standing with Georgia's Insurance Commissioner's Office.
  - 2. Surety and Insurers must have an A.M. Best Financial Strength Rating of A or higher, with a Financial Size Category of VII or higher.
  - 3. The surety shall have an underwriting limitation in Circular 570 in excess of the Contract Amount.

*5.03 Certificates of Insurance*

- A. Contractor shall deliver to Owner, with copies to each additional insured certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.
- B. Owner shall deliver to Contractor, with copies to each additional insured, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain, if any.

*5.04 Contractor's Liability Insurance*

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

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3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
  4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
    - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
    - b. by any other person for any other reason;
  5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
  6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- B. The policies of insurance required by this Paragraph 5.04 shall:
1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insured (subject to any customary exclusion regarding professional liability) Owner and Project Manager, and any other individuals or entities identified in Section 00200, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
  2. include at least the specific coverages and be written for not less than the limits of liability provided in Section 00200 or required by Laws or Regulations, whichever is greater;
  3. include completed operations insurance;
  4. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.13 and 6.23;
  5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least **30 days** prior written notice has been given to Owner and Contractor and to each other additional insured identified in Section 00200 to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);
  6. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
  7. with respect to completed operations insurance, and any insurance coverage written on a

claims-made basis, remain in effect for at least two years after final payment.

- a. Contractor shall furnish Owner and each other additional insured, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.
- C. The limits of liability for the insurance required by paragraph 5.04.B.2 of the General Conditions shall provide coverage specified in Section 00200 or greater where required by Laws and Regulations.

*5.05 Owner's Liability Insurance*

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

*5.06 Property Insurance*

- A. Contractor shall purchase and maintain property insurance as required in Section 00200.

*5.07 Waiver of Rights*

- A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 by Contractor will protect Owner, Contractor, Subcontractors, and Project Manager, and all other individuals or entities identified herein as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Contractor as trustee or otherwise payable under any policy so issued.

*5.08 Receipt and Application of Insurance Proceeds*

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

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exercise of this power. If such objection be made, Owner shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner shall adjust and settle the loss with the insurers.

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

- A. If Owner has any objection to the coverage afforded by or other provision of the insurance required to be purchased and maintained by Contractor in accordance with this Article 5 on the basis of its not complying with the Contract Documents, Owner will notify Contractor in writing thereof within **ten (10) days** of the date of delivery of such certificate to Owner in accordance with Paragraph 2.01. Contractor will provide such additional information in respect of insurance provided by Contractor as Owner may reasonably request.

*5.10 Partial Utilization, Acknowledgment of Property Insurer*

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

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**ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES**

*6.01 Execution of the Contract*

- A. Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents. The Contractor understands that no deviation will be allowed from the Project Manager's interpretation of the Contract Documents after the letting.

*6.02 Review Of Contract Documents and Field Conditions*

- A. The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the contractor shall: (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies or omissions discovered to the Project Manager.

*6.03 Supervision and Superintendence*

- A. Contractor shall supervise, provide quality control, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of

construction. Contractor shall not be responsible for the negligence of Owner or Project Manager in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.

- B. At all times during the progress of the Work, Contractor shall assign a competent Superintendent thereto who shall not be replaced, except under extraordinary circumstances, without written notice to Owner and Project Manager. Contractor shall also designate, in writing, a representative, hereinafter referred to as Contractor's Project Manager, assigned to the Project on a full-time basis during execution of the Work who shall have authority to act on behalf of Contractor, including executing the orders or directions of the Project Manager without delay. This Superintendent and/or Contractor's Project Manager shall have full authority to promptly supply products, tools, plant equipment, and labor as may be required to diligently prosecute the Work. All communications given to or received from the Superintendent and/or the Contractor's Project Manager shall be binding on Contractor.
- C. If at any time during the Project, the Superintendent or Contractor's Project Manager leaves the Project site while Work is in progress; Project Manager shall be notified and provided with the name of Contractor's representative having responsible charge.
- D. Contractor shall also designate the person responsible for Contractor's quality control while Work is in progress. Project Manager shall be notified in writing prior to any change in quality control representative assignment.
- E. Prior to the execution of the Agreement, Contractor shall furnish to the Owner and Project Manager the names, resumes, 24 hour contact information and other relevant information associated with the Project Manager and the Superintendent that are to be assigned to this project. The Project Manager and Superintendent must be acceptable to the Owner and Project Manager.
- F. The Contractor shall preserve and have accessible on the job site at all times at least one (1) copy of the Plans, the Specifications, and any addenda thereto.
- G. The Contractor shall plan, coordinate, and prosecute the work so that disruption to personal property and business is held to a practical minimum. He shall not open up work to the prejudice of work already in progress, and the Project Manager may require the Contractor to finish a section on which the work is in progress before work is started on any additional section.

#### *6.04 Labor; Working Hours*

- A. Contractor shall provide competent, skilled, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site. Contractor shall, upon demand from the Project Manager, immediately remove any manager, superintendent, foreman or workman whom the Project Manager or Owner may consider incompetent or undesirable

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- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Project Manager.
- C. Regular working hours are defined as 8 hours per day, Monday through Friday, excluding holidays, occurring between the hours of 7:00 AM and 7:00 PM, or as specified elsewhere. Requests to work other than regular working hours shall be submitted to Project Manager not less than 48 hours prior to any proposed weekend work or scheduled extended work weeks. Occasional unscheduled overtime on weekdays may be permitted provided reasonable notice is given to Project Manager.

6.05 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.
- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All products provided on this Project shall be products currently manufactured by the manufacturer, i.e., products shall not be discontinued or out-of-date products nor shall they be of the last production run of the product. Contractor shall incorporate the previous sentence in any contract or agreement between Contractor and subcontractor or supplier supplying products provided on this Project. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Project Manager, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.
- D. Without limiting the responsibility or liability of the Contractor pursuant to this agreement, all warranties given by manufacturers on materials or equipment incorporated in the work are hereby assigned by the Contractor to the Owner. Such assignment shall be effective upon completion of Contractor's warranty period. If requested, the Contractor shall execute formal assignments of said manufacturer's warranties to the Owner. All such warranties shall be directly enforceable by the Owner. Such assignment shall in no way affect the Contractor's responsibilities and duties during the warranty period.
- E. Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work. In the event that the Project

Manager shall notify the Contractor in writing that any person employed is, in the opinion of the Project Manager, incompetent or disorderly, or uses threatening or abusive language, or is otherwise unsatisfactory, such person shall be discharged at once and shall not be employed thereafter on the Work.

- F. The Contractor shall deliver, handle, store and install materials in accordance with manufacturers' instructions. Portions of the Right-of-Way, approved by the Project Manager, may be used for material storage or staging purposes. Private property shall not be used for storage or staging purposes without written permission of the property owner or lessee. The Contractor at his expense shall restore all storage sites to their original condition. The Owner shall retain ownership of any materials or equipment, if furnished, which are not incorporated in the work, and the Contractor, at his own expense, shall load such materials or equipment at the work site, transport them to the Owner's storage yard as directed by the Project Manager, and shall unload and leave them neatly stored in a workmanlike manner.
- G. Material and Workmanship
1. All equipment, material, and articles incorporated into the Work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Thomson McDuffie Development Authority Project Manager is equal to that named in the specifications, unless otherwise specifically provided in this contract.
  2. The Contractor shall obtain the Thomson McDuffie Development Authority Project Manager's approval of the machinery and mechanical and other equipment to be incorporated into the Work. When requesting approval, the Contractor shall furnish to the Thomson McDuffie Development Authority Project Manager the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and other equipment. When required by this contract or by the Thomson McDuffie Development Authority Project Manager, the Contractor shall also obtain the Thomson McDuffie Development Authority Project Manager's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.
  3. All work under this contract shall be performed in a skillful and workmanlike manner. The Thomson McDuffie Development Authority Project Manager may require, in writing, that the Contractor remove from the work any employee the ACC Project Manager deems incompetent, careless, or otherwise objectionable.

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6.06 *Progress Schedule*

- A. Contractor shall provide all resources, labor, materials, equipment, services, etc. necessary to adhere to the Progress Schedule established in accordance with Paragraph 2.05 and the General Requirements as updated and adjusted from time to time as provided below.
  - 1. Contractor shall submit to Project Manager for acceptance (to the extent indicated in Paragraph 2.05 and the General Requirements) an updated Progress Schedule with each partial payment request, but no less than monthly. Contractor's failure to provide acceptable updated Progress Schedule will delay processing of the pay request until receipt of the acceptable updated Progress Schedule. Such updates and adjustments shall comply with any provisions of the General Requirements applicable thereto.
  - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.
  - 3. If the Progress Schedule reflects a completion date prior to the completion date established by the Agreement, this shall afford no basis to claim for delay should Contractor not complete the Work prior to the projected completion date. Instead, all "float" between the completion date in Contractor's schedule and the completion date established in the Agreement shall belong to and is exclusively available to the Owner. Should a change order be executed with a revised completion date, the Progress Schedule shall be revised to reflect the new completion date.
  - 4. Number of anticipated abnormal weather conditions, as defined in the Special Requirements, shall be included on the critical path of Project Schedule.

6.07 *Substitutes and "Or-Equals"*

N/A this Contract.

6.08 *Concerning Subcontractors, Suppliers, and Others*

- A. Subcontracts
  - 1. No portion of the work shall be subcontracted without prior written consent of the Thomson McDuffie Development Authority Purchasing Office. If a portion of the work is approved for subcontracting, the contractor shall remain fully liable and responsible for the work to be done by the subcontractor(s) and shall assure compliance with all requirements of this contract.
- B. Contractor shall not employ any Subcontractor, Supplier or other person or organization, (including those who are to furnish the principal items of materials or equipment), whether

initially or as a substitute, that Owner may have reasonable objection. Acceptance of any Subcontractor, other person or organization by Owner shall not constitute a waiver of any right of Owner to reject defective Work. Contractor shall not be required to employ any Subcontractor, other person or organization against whom Contractor has reasonable objection. If more than twenty-five percent of the work (as measured by dollar value and not including specialty work that is customarily subcontracted) is to be performed by one or more subcontractors then Contractor is obligated to notify Owner in writing of this intent with the submission of the Proposal and to provide such supplemental information within five days of the Proposal as outlined under the Proposal Requirements.

- C. If the General Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the General Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Proposal Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Project Manager to reject defective Work.
- D. Contractor shall be fully responsible to Owner and Project Manager for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:
  - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Project Manager and any such Subcontractor, Supplier or other individual or entity, nor
  - 2. shall anything in the Contract Documents create any obligation on the part of Owner or Project Manager to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- E. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- F. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Project Manager through Contractor.
- G. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

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- H. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Project Manager.
- I. Owner or Project Manager may furnish to any Subcontractor, Supplier or other person or organization, to the extent practicable, information about amounts paid on their behalf to Contractor in accordance with Contractor's Applications for Payment.
- J. Specialty Subcontractors: Contractor shall utilize the services of Specialty Subcontractors on those parts of the Work which is declared specialty work in Specifications and which, under normal contracting practices, is best performed by Specialty Subcontractors, as required by the Project Manager in Project Manager's sole discretion, at no additional cost to the Owner. If Contractor desires to perform specialty work, Contractor shall submit a request to the Owner, accompanied by evidence that Contractor's own organization has successfully performed the type of work in question, is presently competent to perform the type of work, and the performance of the work by Specialty Subcontractors will result in materially increased costs or inordinate delays.

6.09 *Patent Fees and Royalties*

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

6.10 *Permits*

- A. Unless otherwise provided in these General Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of

Proposals, or, if there are no Proposals, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

*6.11 Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Project Manager shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Proposals (or, on the Effective Date of the Agreement if there were no Proposals) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made as provided in Paragraph 10.05.
- D. Contractor shall perform those duties as they relate to Section 36-91-92 of the Official Code of Georgia Annotated, including filing the Notice of Commencement. Contractor shall provide Owner and Project Manager with proof of having performed these duties before any progress payments or final payment shall be considered due and payable to the Contractor.
- E. Where professional Engineering and or Architectural services are required in connection with any of the components required by the Contract, all Offerors and component suppliers must make certain that there is full compliance with all applicable laws of the State of Georgia and any other state governing professional Engineering and/or Architecture. The Owner and Project Manager do not warrant that any entity listed as an acceptable manufacturer is or will be in compliance with such laws.
- F. Any fines levied against the Owner for failure of by Contractor to properly maintain required NPDES erosion and sediment control measures or any other related requirements will be doubled in their amounts and deducted as set-offs from payments due Contractor.

*6.12 Taxes*

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

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6.13 *Use of Site and Other Areas*

A. Limitation on Use of Site and Other Areas:

1. The Contractor shall confine all operations (including storage of materials) on Thomson McDuffie Development Authority premises to areas authorized or approved by the Thomson McDuffie Development Authority Project Manager. The Contractor shall hold and save Thomson McDuffie Development Authority, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.
2. Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Thomson McDuffie Development Authority Project Manager and shall be built with labor and materials furnished by the Contractor without expense to the Unified Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the Work. With the written consent of the Thomson McDuffie Development Authority Project Manager, the buildings and utilities may be abandoned and need not be removed.
3. The Contractor shall, under regulations prescribed by the Thomson McDuffie Development Authority Project Manager, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Thomson McDuffie Development Authority Project Manager. When materials are transported in prosecuting the Work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.
4. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
5. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
6. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Project Manager, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or

action, legal or equitable, brought by any such owner or occupant against Owner, Project Manager, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

- B. Protection Of Existing Vegetation, Structures, Equipment, Utilities, And Improvements:
1. The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work sites, which are not to be removed and which do not unreasonably interfere with the Work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place.
  2. The Contractor shall protect from damage all existing improvements and utilities: (a) at or near the work site, and (b) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Thomson McDuffie Development Authority Project Manager may have the necessary work performed and charge the cost to the Contractor.
- C. Removal of Debris during Performance of the Work: During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.
- D. Cleaning: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- E. Loading Structures: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.
- F. Storage of Materials and Equipment shall be at locations approved by the Project Manager.

#### *6.14 Record Documents*

- A. Contractor shall maintain in a safe place at the Site Record Documents as specified in the General Requirements. Upon completion of the Work, these record documents, Samples, and Shop Drawings shall be delivered to Project Manager for Owner.

#### *6.15 Safety and Protection*

- A. Accident Prevention

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1. The Contractor shall provide and maintain work environments and procedures which will: (a) Safeguard the public and Thomson McDuffie Development Authority's personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities; (b) Avoid interruptions of Unified Government operations and delays in project completion dates; and (c) Control costs in the performance of this contract.
  2. For these purposes on contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall: (a) Provide appropriate safety barricades, signs, and signal lights; (b) Comply with the standards issued by the Secretary of Labor at 29 CFR part 1926 and 29 CFR part 1910; and (c) Ensure that any additional measures the Thomson McDuffie Development Authority Project Manager determines to be reasonably necessary for the purposes are taken.
  3. Whenever the Thomson McDuffie Development Authority Project Manager becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or the Unified Government personnel, the Thomson McDuffie Development Authority Project Manager shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Thomson McDuffie Development Authority Project Manager may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.
  4. The Contractor shall insert this clause with appropriate changes in the designation of the parties, in subcontracts.
- B. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
1. all persons on the Site or who may be affected by the Work;
  2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and;
  3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- C. Contractor shall comply with all applicable Laws and Regulations relating to the safety of

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

- D. All damage, injury, or loss to any property referred to in Paragraph 6.15.A.2 or 6.15.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Project Manager or , or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Project Manager has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- F. The property, improvements or facilities at the site shall be replaced or restored to a condition as good as when Contractor entered upon the Work. In case of failure on the part of Contractor to restore such property, or make good such damages or injury, the Owner may, after 48 hours written notice, or sooner in the case of an emergency, proceed to repair, rebuild, or otherwise restore such property, improvements or facilities as may be deemed necessary. The cost thereof will be deducted from any monies due or which may become due Contractor under this Contract.

#### *6.16 Safety Representative*

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

#### *6.17 Hazard Communication Programs*

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

#### *6.18 Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Project Manager prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused

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thereby or are required as a result thereof. If Project Manager determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

#### *6.19 Shop Drawings, Samples and other Submittals*

- A. Contractor shall submit Submittals to Project Manager for review and approval in accordance with the acceptable Schedule of Submittals (as required by Paragraph 2.05). Each submittal will be identified as Project Manager may require.
  - 1. Shop Drawings
    - a. Submit number of copies specified in the Specifications.
    - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Project Manager the services, materials, and equipment Contractor proposes to provide and to enable Project Manager to review the information for the limited purposes required by Paragraph 6.179D.
  - 2. Samples
    - a. Submit number of Samples specified in the Specifications.
    - b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Project Manager may require enabling Project Manager to review the submittal for the limited purposes required by Paragraph 6.19.D.
- B. Where any Submittal is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Project Manager's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. Submittal Procedures
  - 1. Before submitting each Shop Drawing or Sample, Contractor shall have determined and verified:
    - a. all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
    - b. the suitability of all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;
    - c. all information relative to Contractor's responsibilities for means, methods, tech-

niques, sequences, and procedures of construction, and safety precautions and programs incident thereto; and

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

D. Project Manager's Review

1. Project Manager will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Project Manager. Project Manager's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Project Manager's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
3. Project Manager's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.19.C.3 and Project Manager has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Project Manager's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.19.C.1.

E. Re-submittal Procedures

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

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than the corrections called for by Project Manager on previous submittals.

6.20 *Continuing the Work*

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

6.21 *Contractor's General Warranty and Guarantee*

- A. The Contractor will be responsible for the good condition of the Work and materials until formal release from his obligations under the terms of the Contract Documents. He will bear all losses resulting to him on account of the amount or character of the Work, or the character of the ground, being different from what he anticipated, or on account of the weather or the elements.
- B. The Contractor warrants to the Owner that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents.
- C. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Project Manager shall be entitled to rely on representation of Contractor's warranty and guarantee.
- D. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
  - 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
  - 2. normal wear and tear under normal usage.
- E. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
  - 1. observations by Project Manager;
  - 2. recommendation by Project Manager or payment by Owner of any progress or final payment;
  - 3. the issuance of a certificate of Substantial Completion by Project Manager or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;
5. any review and approval of a Submittal or the issuance of a notice of acceptability by Project Manager;
6. any inspection, test, or approval by others; or
7. any correction of defective Work by Owner.

*6.22 Appeal of Project Manager's Decisions*

- A. If the Contractor considers any work demanded of him to be outside the requirements of this Contract, or if he considers any decision or ruling of the Project Manager to be unfair, he shall immediately ask for written instructions or decision, and he shall proceed without delay to perform the Work or conform to the decision or ruling. If the Contractor finds such instructions or decision to be unsatisfactory, he shall within **ten (10) days** after the receipt thereof file a written protest with the Owner stating clearly and in detail his objections and the reasons therefore. Unless the Contractor shall file such written protest with the Owner within such ten day period, he shall be deemed to have waived all grounds for such protest and to have accepted the requirements, decision, or ruling of the Project Manager as just and reasonable and as being within the scope of the Contractor's obligations under the Contract Documents.

*6.23 Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Project Manager, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable. If through the negligent act or omission on the part of Contractor, any other contractor or any subcontractor shall suffer loss or damage on the Work, Contractor shall settle with such other contractor or subcontractor by agreement or arbitration if such other contractor or subcontractor will so settle. If such other contractor or subcontractor shall assert any claim against Owner, Project Manager, and/or Designer on account of any damage alleged to have been sustained, Owner shall notify Contractor, who shall indemnify and save harmless Owner, Project Manager, and/or Designer against any such claims.
- B. In any and all claims against Owner or Project Manager or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work,

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or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.23.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

- C. Contractor, Subcontractors, Suppliers and others on the Project, or their sureties, shall maintain no direct action against the Project Manager and/or Designer, their officers, employees, affiliated corporations, consultants, and Subcontractors, for any claim arising out of, in connection with, or resulting from the engineering services performed. Only the Owner will be the beneficiary of any undertaking by the Project Manager and/or Designer.
- D. The Contractor agrees to defend against any claims brought or action filed against the Owner or its officers, agents, and employees in connection with the subject of the indemnities contained herein.
- E. The Owner may retain from money otherwise payable under the Contract such amount as it may determine to be required to pay the expenses and damages arising from any of said causes, or in case no money is due, the Contractor's surety shall be held until such suits, action or claims for injuries or damages shall have been settled and suitable evidence to that effect furnished to the Owner.

6.24 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Project Manager will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Project Manager.
- C. Owner and Project Manager shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Project Manager have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 6.24, Project Manager's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with

performance and design criteria given and the design concept expressed in the Contract Documents. Project Manager's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.19.D.1.

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

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## ARTICLE 7 - OTHER WORK AT THE SITE

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### 7.01 *Related Work at Site*

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

### 7.02 *Coordination*

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- A. If Owner contracts with others for the performance of other work on the Site, Contractor shall attend and participate in coordination meetings with the other on-site contractors.
- B. Unless otherwise provided in these General Conditions, Owner shall have sole authority and responsibility for such coordination with other contractors.
- C. Contractor shall coordinate the work of utility relocations and adjustments with respective utility owners in a timely manner to permit adjustments to be made before construction progress is obstructed and delays occur.

7.03 *Legal Relationships*

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

7.04 *Claims Between Contractors*

- A. Should Contractor cause damage to the work or property of any separate contractor at the site, or should any claim arising out of Contractor's performance of the Work at the site be made by any separate contractor against Contractor, Owner, Project Manager, and/or Designer or any other person, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute by mediation, arbitration, or at law.
- B. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold Owner, Project Manager, and/or Designer and the officers, directors, employees, agents, and other consultants of each and any of them harmless from and against all claims, costs, losses and damages, (including, but not limited to, all fees and charges of Engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising directly, indirectly or consequentially out of or resulting from any action, legal or equitable, brought by any separate contractor against Owner, Project Manager, and/or Designer or the officers, directors, employees, agents, or other consultants of each and any of them to the extent based on a claim arising out of Contractor's performance of the Work. Should a separate contractor cause damage to the Work or property of Contractor or should the performance of work by any separate contractor at the site give rise to any other claim, Contractor shall not institute any action, legal or equitable, against Owner, Project Manager, and/or Designer or the officers, directors, employees, agents, or other consultants of each and any of them or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any mediator or arbitrator which seeks to impose liability on or to recover damages from Owner, Project Manager, and/or Designer or the officers, directors, employees,

agents, or other consultants of each and any of them on account of any such damage or claim.

- C. If Contractor is delayed at any time in performing or furnishing Work by any act or neglect of a separate contractor and Owner and Contractor are unable to agree as to the extent of any adjustment in Contract Times attributable thereto, Contractor may make a claim for an extension of times in accordance with Article 12. An extension of the Contract Times shall be Contractor's exclusive remedy with respect to Owner, Project Manager, and/or Designer and the officers, directors, employees, agents, or other consultants of each and any of them for any delay, disruption, interference or hindrance caused by any separate contractor. This Paragraph does not prevent recovery from Owner, Project Manager, and/or Designer for activities that are their respective responsibilities.

## **ARTICLE 8 - OWNER'S RESPONSIBILITIES**

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### *8.01 Communications to Contractor*

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

### *8.02 Furnish Data*

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

### *8.03 Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in Article 14.

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

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

### *8.05 Insurance*

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

### *8.06 Change Orders*

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

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*8.07 Inspections, Tests, and Approvals*

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

*8.08 Limitations on Owner's Responsibilities*

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

*8.09 Undisclosed Hazardous Environmental Condition*

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

*8.10 Evidence of Financial Arrangements*

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

**ARTICLE 9 - PROJECT MANAGER'S RESPONSIBILITIES**

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*9.01 Administration of the Contract*

- A. For the purpose of this Contract, the Project Manager shall be Thomson McDuffie Development Authority, Transportation and Public Works Department, Construction Management Coordinator or his designee. The Project Manager will provide administration of the Contract as described in the Contract Documents.

*9.02 Access to the Work*

- A. The Project Manager will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work. He is to have free access to the Work at all times for laying out, measuring and inspecting the same. He shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

*9.03 Limits of Responsibility*

- A. The Project Manager will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's

responsibility. The Project Manager will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

*9.04 Authorized Variations in Work*

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

*9.05 Authority to Certify the Work*

- A. The Project Manager shall determine the amount, quality, fitness and acceptability of the Work, and he will review the Contractor's Applications for Payment and certify the amounts due the Contractor.

*9.06 Authority to Reject the Work*

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

*9.07 Determinations for Unit Price Work*

- A. Project Manager will have authority to determine the actual quantities and classifications of items of Unit Price Work performed by Contractor, and the written decisions of Project Manager on such matters will be final, binding on Owner and Contractor and not subject to appeal (except as modified by Project Manager to reflect changed factual conditions).

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

- A. Project Manager will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Project Manager in writing within **30 days** of the event giving rise to the question.
- B. Project Manager, with reasonable promptness, will render a written decision on the issue

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referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Project Manager's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

- C. Project Manager's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.
- D. When functioning as interpreter and judge under this Paragraph 9.08, Project Manager will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

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

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*10.01 Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
  - 1. Owner may, in anticipation of possibly ordering an addition, deletion or revision to the Work, request Contractor to prepare a proposal of cost and times to perform Owner's contemplated changes in the Work. Contractor's written proposal shall be transmitted to the Project Manager promptly, but not later than **seven (7) calendar days** after Contractor's receipt of Owner's written request and shall remain a firm offer for a period not less than **sixty days** after receipt by Project Manager.
  - 2. Contractor is not authorized to proceed on an Owner contemplated change in the Work prior to Contractor's receipt of a Change Order (or Work Change Directive) incorporating such change into the Work.
  - 3. Owner's request for proposal or Contractor's failure to submit such proposal within the required time period will not justify a claim for an adjustment in Contract Price or Contract Time.
  - 4. The Owner shall not be liable to the Contractor for any costs associated with the preparation of proposal associated with Owner's contemplated changes in the Work.
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefore as provided in Paragraph 10.05.
- C. Cancellation of Work

1. The Owner shall have the right to cancel those portions of the Contract relating to the construction of any item provided for therein. Such cancellation shall entitle the Contractor to payment of a fair and equitable amount covering all items of cost incurred by him prior to the date of cancellation or suspension of the work by order of the Project Manager. Acceptable materials ordered by the Contractor or delivered to the Work prior to the date of such cancellation or suspension shall be purchased from the Contractor by the Owner at actual cost + 10% and shall thereupon become the property of the Owner.

*10.02 Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.18 or in the case of uncovering Work as provided in Paragraph 13.04.B.

*10.03 Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Project Manager covering:
  1. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 10.01.A, (b) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (c) 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 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 6.20.A.
- B. In signing a Change Order, the Owner and Contractor acknowledge and agree that:
  1. the stipulated compensation (Contract Price or Contract Time, or both) set forth in the Change Order includes payment for (a) the Cost of the Work covered by the Change Order, (b) Contractor's fee for overhead and profit, (c) any additional bond costs, (d) interruption of Progress Schedules, (e) delay and impact, including cumulative impact, on other work under the Contract Documents, and (f) extended home office and jobsite overhead;
  2. the Change Order constitutes full mutual accord and satisfaction for the change to the

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Work;

3. no reservation of rights to pursue subsequent claims on the Change Order will be made by either party; and
4. no subsequent claim or amendment of the Contract Documents will arise out of or as a result of the Change Order.

*10.04 Notification to Surety*

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

*10.05 Claims and Disputes*

- A. Project Manager's Decision Required: All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Project Manager for decision. A decision by Project Manager 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 and the other party to the Contract promptly (but in no event later than **ten (10) 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 and the other party to the Contract within **20 days** (and monthly thereafter for continuing events) after the start of such event (unless Project Manager allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Project Manager and the claimant within **30 days** after receipt of the claimant's last submittal (unless Project Manager allows additional time).
- C. Project Manager's Action: Project Manager 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 Project Manager is unable to resolve the Claim if, in the Project Manager's sole discretion, it would be inappropriate for the Project Manager 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 does not take action on a Claim within said **30 days**, the Claim shall be deemed denied.
- E. Project Manager'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.
- G. Contractor, Subcontractors, Suppliers and others on the Project, or their surety, shall maintain no direct action against the Project Manager or Designer, its officers, employees, affiliated corporations, and Subcontractors, for any claim arising out of, in connection with, or resulting from the Project Managing services performed. Only the Owner will be the beneficiary of any undertaking with the Project Manager.

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## **ARTICLE 11 - COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

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### *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 include only the following items, and shall not include any of the costs itemized in Paragraph 11.01.B.
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 at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of

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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 proposals from subcontractors acceptable to Owner and Contractor and shall deliver such proposals to Owner, who will then determine, with the advice of Project Manager, which proposals, 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, 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.
    - i. Full rental cost for rented, leased, and/or owned equipment shall not exceed the rates listed in the Rental Rate Blue Book published Equipment Watch, a unit of Primedia, Inc., as adjusted to the regional area of the Project. The most

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recent published edition in effect at the commencement of the actual equipment use shall be used.

- ii. Rates shall apply to equipment in good working condition. Equipment not in good condition, or larger than required, may be rejected by Project Manager or accepted at reduced rates.
- iii. Equipment in Use: Actual equipment use time documented by the Project Manager shall be the basis that the equipment was on and utilized at the Project site. In addition to the leasing rate above, equipment operational costs shall be paid at the estimated operating cost, payment category (and the table below), and associated rate set forth in the Blue Book if not already included in the lease rate. The hours of operation shall be based upon actual equipment usage to the nearest quarter hour, as recorded by the Project Manager.
- iv. Equipment when idle (Standby): Idle or standby equipment is equipment on-site or in transit to and from the Work site and necessary to perform the Work under the modification but not in actual use. Idle equipment time, as documented by the Project Manager, shall be paid at the leasing rate determined in 11.01.A.5.c, excluding operational costs.
- v. Where a breakdown occurs on any piece of equipment, payment shall cease for that equipment and any other equipment idled by the breakdown. If any part of the Work is shutdown by the Owner, standby time will be paid during non-operating hours if diversion of equipment to other Work is not practicable. Project Manager reserves the right to cease standby time payment when an extended shutdown is anticipated.

<b>Actual Usage</b>	<b>Blue Book Payment Category</b>
Less than 8 hours	Hourly Rate
8 or more hours but less than 7-days	Daily Rate
7 or more days but less than 30 days	Weekly Rate
30 days or more	Monthly Rate

- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, 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 any of the Work that has been completed and accepted by the Owner, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance and furnishing of the Work (except losses and damages within the deductible amounts of property insurance established by Owner in accordance with Paragraph 5.06.A.),

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provided they 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. If, however, any such loss or damage to the Work that has been accepted by Owner requires reconstruction and Contractor is placed in charge thereof, Contractor shall be paid for services, a fee proportionate to that stated in Paragraph 12.01.c.

- 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, expresses, 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 and 11.01.B.

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 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 Project Manager.
- 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 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 Proposals 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 subject to the provisions of Paragraph 9.07.

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- 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 materially and significantly differs from the estimated quantity of such item indicated in the Agreement. Changes involving any major item in an amount not more than fifty percent of the quantities listed in the Proposal will result in payment for revised quantities at the unit price in the Proposal. A major item is construed to be any item of the Contract, which amounts to at least ten (10) percent of the total Contract price. Changes involving any minor item in an increased amount not more than 200 percent of the quantities listed in the Proposal will result in payment for the revised quantities at the unit price in the Proposal. A minor item is construed to be any item of the Contract, which amounts to less than ten (10) percent of the total Contract price;
  - 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**

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*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 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:
    - a. by a lump sum value fixed by the Owner, which may include an allowance for overhead and profit (not necessarily in accordance with Paragraph 12.01.C.2); or
    - b. by new unit price items fixed by the Owner (not necessarily derived in accordance

with Paragraph 11.01); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and when this method is selected by the Owner, 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 based on subcontractor's actual Cost of the Work;
    - 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 Paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor; except the maximum total allowable cost to Owner shall be the Cost of the Work plus a maximum collective aggregate fee for Contractor and all tiered Subcontractors of 26.8 percent;
    - 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 Time*

- 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 and the other party to the Contract in accordance with the provisions of

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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.
- C. All time limits stated in the Contract Documents are of the essence of the Agreement. Contractor shall proceed with the Work at a rate of progress which will insure completion within the Contract Time. It is expressly understood and agreed by and between Contractor and the Owner, that the Contract Time for the Work described herein is a reasonable time, taking into consideration the average climatic and economic conditions, and other factors prevailing in the locality of the Work. If Contractor shall fail to perform the Work required within the Contract Time, or extended Contract Time if authorized by Change order, then Contractor shall pay to the Owner the full amount of liquidated damages specified in the Contract Documents for each calendar day that Contractor shall be in default after the time stipulated in the Contract Documents.

*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 may be extended in an amount equal to the time lost due to such delay if a Claim is made 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, freight embargo, acts of war (declared or not declared), or acts of God.
- B. If Owner, Project Manager, 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 may 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. Contractor shall coordinate the work of utility relocations and adjustments with respective utility owners in a timely manner to permit adjustments to be made before construction progress is obstructed and delays occur. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such coordination having been made in a timely manner.
- D. 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 may 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.D.

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

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

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*13.01 Notice of Defects*

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

*13.02 Access to Work*

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

*13.03 Tests and Inspections*

- A. Contractor is responsible for the initial and subsequent inspections of Contractor's Work to ensure that the Work conforms to the requirements of the Contract Documents. Contractor shall give Project Manager 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. Contractor shall establish an inspection program and a testing plan acceptable to the Project Manager and shall maintain complete inspection and testing records available to Project Manager.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all non-contractor 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 said Paragraph 13.04.C; and

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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 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 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.
- 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, it must, if requested by Project Manager, be uncovered for observation.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Project Manager timely notice of Contractor's intention to cover the same and Project Manager 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, it must, if requested by Project Manager, be uncovered for Project Manager's observation and replaced at Contractor's expense.
- B. If Project Manager considers it necessary or advisable that covered Work be observed by Project Manager or inspected or tested by others, Contractor, at Project Manager's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Project Manager 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 thereof 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 thereof 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.
- B. If Owner stops Work under Paragraph 13.05.A, Contractor shall be entitled to no extension of Contract Time or increase in Contract Price.

*13.06 Correction or Removal of Defective Work*

- A. Promptly after receipt of notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Project Manager, 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.
- C. Contractor shall promptly segregate and remove rejected products from the Site.

*13.07 Warranty and Correction Period*

- A. If within one year after the date of Final 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 not in conformance with the requirements of the contract documents, 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 6.13.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

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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 recommendation of final payment, Project Manager) 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 as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Project Manager'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 thereof 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 as defined by the Project Manager after written notice from Project Manager to correct defective Work or to remove and replace rejected Work as required by Project Manager 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 (7) days** written notice to Contractor, correct or remedy any such deficiency.

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

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## ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

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### *14.01 Contract Sum*

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

### *14.02 Progress Payments*

- A. Applications for Payments
  - 1. On the last day of each pay period, the Contractor and Project Manager shall meet and measure all work performed during the pay period. No later than **five (5) days** after that, the Project Manager shall present a Monthly Quantity Summary to the Contractor for the Contractor's use in preparing the Application for Payment.

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2. By the 10th day of each month, Contractor shall submit to Project Manager an Application for Payment filled out and signed by Contractor covering the Work completed through the last day of the pay period.
3. The Application for Payment shall be submitted using AIA standard form G702 together with a continuation sheet or Schedule of Values provided by the Project Manager for use by the Contractor in quantifying work performed that pay period.
4. 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.
5. The Application for Payment shall be accompanied by a Project Schedule and supporting documentation as is required by the Contract Documents.
6. 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.
7. The Owner will retain ten (10%) percent of the value of all work satisfactorily completed, including stored materials from each properly certified Application for Payment.

B. Review of Applications

1. Project Manager will, within **ten (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 reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Project Manager's recommendation of any payment requested in an Application for Payment will constitute a representation by Project Manager to Owner, based on Project Manager's observations on the Site of the executed Work as an experienced and qualified design professional and on Project Manager's review of the Application for Payment and the accompanying data and schedules, that to the best of Project Manager'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, to the results of any subsequent tests called for in the

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

- 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 responsibility to observe the Work.
- 3. By recommending any such payment Project Manager 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 in the Contract Documents; or
  - b. that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
- 4. Project Manager's review of Contractor's Work for neither the purposes of recommending payments nor Project Manager's recommendation of any payment, including final payment, will impose responsibility on Project Manager:
  - 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 may refuse to recommend the whole or any part of any payment if, in Project Manager's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Project Manager 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 opinion to protect Owner from loss because the:
  - a. Work is defective, or completed Work has been damaged, requiring correction or

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replacement;

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

C. Payment Becomes Due

- 1. Owner and Contractor agree that all partial payments and final payments shall be subject to the Georgia Prompt Pay Act, as originally enacted and amended, and as set forth in O.C.G.A. 13-11-1 through 13-11-11, except as provided below to the extent authorized by law:
  - a. Interest Rate: For purposes of computing interest on late payments, the rate of interest shall be one-half percent per month or a pro-rata fraction thereof on the unpaid balance as may be due.
  - b. Payment Periods:
    - i. When Contractor has performed in accordance with the provisions of these Contract Documents, the Owner shall pay Contractor within **45 days** of receipt by the Owner or the Owner's representative of any properly completed Application for Payment, based upon work completed or service provided pursuant to the terms of these Contract Documents.
    - ii. When a subcontractor has performed in accordance with the provisions of its subcontract and the subcontract conditions precedent to payment have been satisfied, Contractor shall pay to that subcontractor and each subcontractor shall pay to its subcontractor, within **ten (10) days** of receipt by Contractor or subcontractor of each periodic or final payment, the full amount received for such subcontractors work and materials based on work completed or service provided under the subcontract, less retainage expressed as a percentage, but such retainage shall not exceed that retainage being held by the Owner, provided that the subcontractor has provided or provides such satisfactory reasonable assurances of continued performance and financial responsibility to complete its work as Contractor in its reasonable discretion may require, including but not limited to a payment and performance bond.
  - c. Interest on Late Payment: Except otherwise provided in these Contract Documents and/or in O.C.G.A. 13-11-5, if a periodic or final payment to Contractor is delayed by more than the time allotted in Paragraph 13.09.C.1.b. of this Prompt Payment Clause or if a periodic or final payment to a subcontractor is delayed more than **ten**

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**(10) days** after receipt of periodic or final payment by Contractor or Subcontractor, the Owner, Contractor, or Subcontractor, as the case may be, shall pay interest to its Contractor, or Subcontractor beginning on the day following the due dates as provided in Paragraph 13.09.C.1.b. of this Prompt Payment Clause at the rate of interest as provided herein. Interest shall be computed per month or a pro-rata fraction thereof on the unpaid balance. There shall be no compounded interest. No interest is due unless the person or entity being charged interest received "Notice" as provided in Paragraph 13.09.C.1.d. of this Prompt Payment Clause. Acceptance or progress payments or final payment shall release all claims for interest on said payments.

- d. Notice of Late Payment and Request of Interest: Any person or entity asserting entitlement to interest on any periodic or final payment pursuant to the provisions of this Prompt Payment Clause shall provide "notice" to the person or entity being charged interest of the charging party's claim to interest on late payment. "Notice" shall be in writing, served by U.S. Certified Mail - Return Receipt Requested at the time the properly completed Application for Payment is received by the Owner or Owner's representative, and shall set forth the following:
  - i. A short and concise statement that interest is due pursuant to the provisions of the Georgia Prompt Pay Act and this Prompt Payment Clause;
  - ii. The principal amount of the periodic or final payment which is allegedly due to the charging party; and
  - iii. The first day and date upon which the charging party alleges that said interest will begin to accrue, pursuant to the provisions of the Georgia Prompt Pay Act and this Prompt Payment Clause.

These "Notice" provisions are of the essence; therefore, failure to comply with any requirement as set for the in the Prompt Payment Clause precludes the right to interest on any alleged late payment to which said "Notice" would otherwise apply.

- 2. Integration with the Georgia Prompt Pay Act: Unless otherwise provided in these Contract Documents, the parties hereto agree that these provisions of this Prompt Payment Clause supersede and control all provisions of the Georgia Prompt Pay Act (O.C.G.A. 13-11-1 through 13-11-11 (1994)), as originally enacted and as amended, and that any dispute arising between the parties hereto as to whether or not the provisions of this contract or the Georgia Prompt Pay Act control will be resolved in favor of these Contract Documents and its terms.

D. Reduction in Payment

- 1. Owner may refuse to make payment of the full amount recommended by Project Manager because:
  - a. claims have been made against Owner on account of Contractor's performance or

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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. 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;
  - d. there are other items entitling Owner to a set-off against the amount recommended. Items entitling Owner to retain set-offs from the amount recommended, including but not limited to:
    - i. retesting of corrected or replaced defective Work;
    - ii. fines levied against the Owner for Contractor's performance of NPDES Erosion and Sedimentation Control Measures or other permit violations.
    - iii. the repair, rebuilding or restoration of property improvements or facilities by the Owner.
    - iv. liability for liquidated damages incurred by Contractor as set forth in the Agreement.
2. If Owner refuses to make payment of the full amount recommended by Project Manager, Owner will give Contractor immediate written notice (with a copy to Project Manager) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor corrects to Owner's satisfaction the reasons for such action.
3. If it is subsequently determined that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1.

*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.
- B. No materials or supplies for the Work shall be purchased by Contractor or Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. Contractor warrants that Contractor has good title to all materials and supplies used by Contractor in the Work, free from all liens, claims or encumbrances.

- C. Contractor shall indemnify and save Owner harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this Contract. Contractor shall at Owner's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If Contractor fails to do so, then Owner may, after having served written notice on the said Contractor either pay unpaid bills, of which Owner has written notice, direct, or withhold from Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to Contractor shall be resumed, in accordance with the terms of this Contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon Owner to either Contractor or Contractor's Surety. In paying any unpaid bills of Contractor, Owner shall be deemed the agent of Contractor and any payment so made by Owner shall be considered as payment made under the Contract by Owner to Contractor and Owner shall not be liable to Contractor for any such payment made in good faith.

#### *14.04 Substantial Completion*

- A. Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner may conveniently and safely occupy or utilize the Work for its intended use. All Work items shall have been completed. When the Project Manager determines that the Work is substantially complete, he shall prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish the responsibilities of the Owner and the Contractor, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate.
- B. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Project Manager in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Project Manager issue a certificate of Substantial Completion. Specific items of Work that must be completed prior to the Project Manager's issuance of a certificate of Substantial Completion include, but are not limited to, the following:
1. All work items contained within the contract that allow the work to be conveniently and safely utilized by the owner.
  2. Correction of all deficient Work items listed by all state, local, and other regulatory agencies or departments.
  3. All Submittals must be received and approved by the Project Manager, including, but not necessarily limited to, the following, where required:
    - a. Record documents.

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- b. Factory test reports.
  - c. Equipment and structure test reports.
  - d. Manufacturer's Certificate of Proper Installation.
  - e. Operating and maintenance information, instructions, manuals, documents, drawings, diagrams, and records.
  - f. Spare parts lists.
- 4. All additional warranty or insurance coverage requirements have been provided.
  - 5. All manufacturer/vendor-provided operator training is complete and documented.
- C. Promptly after Contractor's notification; Owner, Contractor, and Project Manager shall make an inspection of the Work to determine the status of completion. If Project Manager does not consider the Work substantially complete, Project Manager will notify Contractor in writing giving the reasons thereof.
  - D. If Project Manager considers the Work substantially complete, Project Manager will deliver to Contractor and Owner a certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a list of items to be completed or corrected, and the time within which the Contractor shall finish listed items, before final payment.
  - E. At the time of delivery of the tentative certificate of Substantial Completion, Project Manager 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 in writing prior to Project Manager's issuing the definitive certificate of Substantial Completion, Project Manager's aforesaid recommendation will be binding on Owner and Contractor until final payment.
  - F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to 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, 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 will certify to Owner and Project Manager that such part of the Work is substantially complete and request Project Manager to issue a certificate of Substantial Completion for that part of the Work.
2. Contractor at any time may notify Owner and Project Manager in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Project Manager 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 shall make an inspection of that part of the Work to determine its status of completion. If Project Manager does not consider that part of the Work to be substantially complete, Project Manager will notify Owner and Contractor in writing giving the reasons thereof. If Project Manager 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 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, 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 6.14), and other documents, Contractor may make application for final payment following the procedure for progress payments. Under no circumstances will Contractor's application for final payment be accepted by the Project Manager until all Work required by the Contract Documents has been completed.

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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.7;
    - 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: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner or Owner's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.
- B. Project Manager's Review and Acceptance of Application for Final Payment
1. The Project Manager will make his final inspection upon receipt of a Final Application for Payment. Any work not found acceptable and requiring cleaning, repairs and/or replacement will be noted on the "Punch List." The Contractor until final acceptance of the entire project shall maintain Work that has been inspected and accepted by the Project Manager.
  2. Whenever the Contractor has completed the items on the "Punch List," he shall again notify the Project Manager that he is ready for final inspection. This procedure will continue until the Project Manager accepts the entire project. The "Final Payment" will not be processed until the Project Manager has accepted the entire project and all of the requirements of the Contract Documents have been satisfied.
- C. Payment Becomes Due
1. **Forty-five (45) days** after the presentation to Owner of the Application for Final Payment and accompanying documentation, the amount recommended by Project Manager, less any sum Owner is entitled to set off against Project Manager'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 so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Project Manager, 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 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**

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#### *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 which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor may 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 therefore 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 2.05 as adjusted from time to time pursuant to Paragraph 6.06);

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2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
  3. Contractor's disregard of the authority of Project Manager;
  4. Contractor's violation in any substantial way of any provisions of the Contract Documents;
  5. If Contractor abandons the Work, or sublets this Contract or any part thereof, without the previous written consent of Owner, or if the Contract or any claim thereunder shall be assigned by Contractor otherwise than as herein specified;
  6. Contractor is adjudged bankrupt or insolvent;
  7. Contractor makes a general assignment for the benefit of creditors;
  8. A trustee or receiver is appointed for Contractor or for any of Contractor's property;
  9. Contractor files a petition to take advantage of any debtor's relief act, or to reorganize under the bankruptcy or applicable laws;
  10. Contractor repeatedly fails to supply sufficient skilled workmen, materials or equipment;
  11. Contractor fails to make satisfactory progress toward timely completion of the Work;
  12. Contractor repeatedly fails to make prompt payments to Subcontractors or Material Suppliers for labor, materials or equipment.
- B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety ) **seven (7) days** written notice of its intent to terminate the services of Contractor, unless Contractor otherwise cures the deficiency in accordance with 15.02.D.
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 as to their reasonableness and, when so approved by Project Manager, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, 15.02, 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 (7) 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.
- G. Any termination by Owner pursuant to this Paragraph 15.02 may result in the disqualification of Contractor for bidding on future contracts of Owner.

*15.03 Owner May Terminate For Convenience*

- A. Upon **seven (7) days** written notice to Contractor and Project Manager, 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. direct 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 reasonable costs including ten percent overhead and profit for work thereafter performed as specified in such notice; reasonable administrative costs of settling and paying such claims arising out of termination of work under purchase orders or subcontracts; and
  - 4. reasonable expenses directly attributable to termination.
- B. Contractor shall submit within **30 calendar days** after receipt of notice of termination a written statement setting forth its proposal for an adjustment to the Contract Price to include only the incurred costs described in this clause. Owner shall review, analyze, and verify such proposal and negotiate an equitable amount and the Contract may be modified accordingly.

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- C. 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, (1) the Work is suspended for more than **90 consecutive days** by Owner or under an order of court or other public authority, or (2) Project Manager fails to act on any Application for Payment within **30 days** after it is submitted, or (3) Owner fails for **45 days** to pay Contractor any sum finally determined to be due, then Contractor may, upon **seven (7) days** written notice to Owner and Project Manager, and provided Owner or Project Manager 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 Project Manager 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 (7) 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. 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 nor otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph, 15.04.

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ARTICLE 16 - DISPUTE RESOLUTION

*16.01 Methods and Procedures*

- A. Dispute resolution methods and procedures, if any, shall be as set forth in these General Conditions. If no method and procedure has been set forth, and subject to the provisions of Articles 9 and 10, Owner and Contractor may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute. Contractor shall carry on the Work and maintain the progress schedule during the dispute resolution proceedings, unless otherwise agreed by Contractor and Owner in writing.

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ARTICLE 17 - SAFETY

*17.01 Protection of Persons and Property*

- A. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall furnish, install, and maintain all necessary and required barricades, signs, and other traffic control devices in accordance with the Contract Documents and the MUTCD, and take all necessary precautions for the protection of the work and the

safety of the public. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

*17.02 Safety Program*

- A. The contractor shall take every precaution at all times for the protection of persons and property, including the Unified Government's employees and property and its own. The contractor shall maintain an adequate safety program to ensure the safety of contractor employees, subcontractor employees, and all other individuals working under this contract. In addition, the contractor must also provide the Thomson McDuffie Development Authority with a written safety program that he intends to follow in pursuing work under this contract. No work under this contract will be permitted until the Unified Government is assured that the contractor has an adequate safety program in effect.

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**ARTICLE 18 - MISCELLANEOUS**

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*18.01 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.
- B. All notices required of Contractor shall be performed in writing to the appropriate entity.

*18.02 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.

*18.03 Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph, 18.03, will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

*18.04 Survival of Obligations*

GENERAL CONDITIONS

- 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.

*18.05 Controlling Law*

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

*18.06 Headings*

- A. Articles and paragraph headings are inserted for convenience only and do not constitute parts of these general conditions.

*18.07 Addresses*

- A. Both the address given in the Proposal Form upon which this agreement is founded, and Contractor's office at or near the site of the Work are hereby designated as places to either of which notices, letters, and other communications to Contractor shall be certified, mailed, or delivered. The delivering at the above-named place, or depositing in a postpaid wrapper directed to the first-named place, in any post office box regularly maintained by the post office department, of any notice, letter or other communication to Contractor shall be deemed sufficient service thereof upon date of such delivery or mailing. The first-named address may be changed at any time by an instrument in writing, executed by Contractor, and delivered to and acknowledged by the owner and Project Manager. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or other communication upon Contractor personally.

*18.08 Forms and Record*

- A. The form of all Submittals, notices, change orders and other documents permitted or required to be used or transmitted under the Contract Documents shall be determined by the Project Manager.
- B. Contractor shall maintain throughout the term of the Contract, and retain for not less than four years after completion thereof, complete and accurate records of all Contractor's costs which relate to the work performed, including the extra work, under the terms of the Contract. The Owner, or its authorized representative, shall have the right at any reasonable time to examine and audit the original records.
- C. Records to be maintained and retained by Contractor shall include, but not be limited to:
  - 1. Payroll records accounting for total time distribution of Contractor's employees working full or part time on the Work;

2. Cancelled payroll checks or signed receipts for payroll payments in cash;
  3. Invoices for purchases, receiving and issuing documents, and all other unit inventory records for Contractor's stores, stock, or capital items;
  4. Paid invoices and cancelled checks for materials purchase, subcontractors, and any other third parties' charges;
  5. Original estimate and change order estimate files and detailed worksheets;
  6. All project-related correspondence; and
  7. Subcontractor and supplier change order files (including detailed documentation covering negotiated settlements).
- D. Owner shall also have the right to audit: any other supporting evidence necessary to substantiate charges related to this agreement (both direct and indirect costs, including overhead allocations as they may apply to costs associated with this agreement); and any records necessary to permit evaluation and verification of Contractor compliance with contract requirements and compliance with provisions for pricing change orders, payments, or claims submitted by Contractor or any payees thereof. Contractor shall also be required to include the right to audit provision in the contracts (including those of a lump-sum nature) of all subcontractors, insurance agents, or any other business entity providing goods and services.

#### *18.09 Assignment*

- A. Contractor shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of the Owner. In case Contractor assigns all or any part of any monies due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to Contractor shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the Work called for under this Contract.

#### *18.10 Authority of the Project Manager and Designer*

- A. The Project Manager will act as the Owner's representative during the construction period. The Project Manager will decide questions which may arise as to quality and acceptability of products furnished and Work performed. The Project Manager will interpret the intent of the Contract Documents in a fair and unbiased manner. The Project Manager will make visits to the site and determine if the Work is proceeding in accordance with the Contract Documents. The Project Manager will judge as to the accuracy of quantities submitted by Contractor in partial payment estimates and the acceptability of the Work which these quantities represent. The decisions of the Project Manager will be final and conclusive.
- B. The Project Manager may call for the services of the Designer in the following activities:

GENERAL CONDITIONS

1. Performing technical reviews of shop drawings, product data and samples, after the Project Manager has reviewed and deem them acceptable for a detailed review.
  2. Interpreting the intent of the Contract Documents, when in the opinion of the Project Manager, the intent is not apparent.
  3. Reviewing proposed change orders, when such changes may affect the intent of the original design.
  4. Responding to Contractor's Requests For Information, when in the opinion of the Project Manager, the Project Manager does not have sufficient knowledge to respond to the request.
  5. Reviewing changes to the Project, which have first been reviewed and recommended by the Project Manager for acceptance, as to their effect on the intent of the original design.
  6. Performing a final pre-start-up inspection.
  7. Observing the final testing and start-up of the Project.
  8. Determining that the Project is ready for final acceptance.
  9. Performing technical reviews of operation and maintenance manuals, after the Project Manager has reviewed and deem them acceptable for a detailed review.
  10. Attending Progress Meetings, periodic site visits, input on quality and acceptability of products furnished and Work performed.
  11. Designer will be authorized to observe all Work done and all products furnished, including preparation, fabrication and manufacture of the products to be used, but the Designer will not be authorized to alter or waive any requirements of the Contract Documents. The Designer may reject products or suspend the Work until any question at issue can be referred to and decided by the Project Manager.
- C. The Project Manager shall provide the Designer with the following:
1. Minutes of all meetings between the Project Manager and Contractor.
  2. A copy of all the Project Manager's responses to Requests for Information.
- D. All communication between the Designer and Contractor shall go through the Project Manager. There shall be no duties or responsibilities between Contractor and Designer.
- E. Owner shall decide all conflicts between the Project Manager and Designer when the conflicts are based on opinion or interpretation of the Contract Documents.

**END OF SECTION**

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## ARTICLE 1 – THE WORK

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### 1.1 Summary of the Work

The Work included in this project consists of furnishing all superintendence, skilled and unskilled labor, materials, equipment, services, and all other necessary items for **STONE INDUSTRIAL PARK PHASE A** as described in the Plans and Specifications. The Contractor shall perform all work required for such design and construction in accordance with these Contract Documents and subject to the terms and conditions of the Contract, complete and ready to use.

#### 1.1.1 General Work Summary

This is a unit price contract.

The Project generally consists of the clearing and grubbing of approximately 46 acres, grading and installation of two stormwater management facilities and the installation of required erosion and sediment control measures and other means and methods required for to accomplish the scope of work included in these bid documents.

The estimated range of this project is between \$xx - xx

### 1.2 General

- 1.2.1 Certain items of material and/or equipment and their installation may be specified on the Plans and not mentioned in the Specifications. Such items are to be considered as both shown on the Plans and noted in the Specifications and such items will be provided by the Contractor in accordance with the Specifications on the Plans.
- 1.2.2 All Work under this contract shall be constructed in accordance with the lines and grades shown on the approved Plans or approved Shop Drawings or as directed by the Project Manager. Any error or apparent discrepancy in the data shown or omissions of data required to accurately accomplish the stake-out survey shall be referred immediately to the Project Manager for interpretation or correction.
- 1.2.3 All construction surveying and layout shall be provided at the Contractors expense.
- 1.2.4 Limit use of the premises to construction activities in areas indicated. Maintain safe traffic flow. Allow for Owner occupancy and use by the public.
- 1.2.5 Confine operations to areas within the construction limits/easements indicated. Portions of the site beyond areas in which construction operations are indicated are not to be disturbed.

- 1.2.6 Keep access points serving properties clear and available to the Owner and occupants at all times. Do not use these areas for parking or storage of materials.

### **1.3 Property Damage**

- 1.3.1 Exercise extreme care to minimize damage to property adjacent to the construction site, including rights-of-way. Repair and/or replace any damage resulting from Contractor's activities in a manner acceptable to the property owner and the Project Manager as soon as practicable.

### **1.4 Access to Properties and Maintenance of Traffic Flow**

- 1.4.1 For the convenience of the public, the Contractor shall so conduct his operations as to offer the least possible obstruction and inconvenience, and he shall have under construction no greater amount of work than he can prosecute properly with due regard to the rights of the public. A minimum **24-hour notice** shall be given to property owners and/or residents prior to temporary driveway closures.
- 1.4.2 Once construction operations begin, it shall be the Contractor's responsibility to maintain access and traffic-flow until final Project acceptance. Construction operations shall be scheduled and executed in such a manner as to cause minimal inconvenience to owners of abutting property. Convenient access to all properties, roads, highways, sidewalks, and driveways affected by the Work shall be maintained. Maintenance operations are to be performed on a daily basis to provide access and to maintain traffic flow at all times.
- 1.4.3 No material or equipment shall be stored where it will interfere with the free and safe passage of public traffic. At the end of each workday, and at other times when construction operations are not in progress for any reason, the Contractor shall remove all equipment and other obstructions from that portion of a roadway intended for public use.
- 1.4.4 The Contractor throughout the prosecution of the Work shall maintain access to fire hydrants and fire alarm boxes. Hydrants, alarm boxes, and standpipe connections shall be kept clear of obstructions and visible at all times. If visibility cannot be maintained, the Contractor shall provide clearly visible signs showing the location of the fire hydrant.
- 1.4.5 Utility companies and public agencies having facilities within the limits of the Work shall have access to their facilities at all times for inspection and repair.

## **ARTICLE 2 – TIME REQUIREMENTS, BASIS FOR PAYMENT, LIQUIDATED DAMAGES**

- 2.1 Time for Completion:** The Contractor shall commence actual physical work on the Project within **ten (10) calendar days** of the date of the Notice to Proceed. The Contractor shall complete the work of each project ready for use not later than the number of calendar days as set forth below.
1. **Substantial Completion:** Work of **Stone Industrial Park Phase A** shall commence within **ten (10) calendar days** of the date of Notice to Proceed. **Substantial Completion** of all the Work shall be achieved with in the schedule further agreed upon between the CM/GC and the THOMSON MCDUFFIE DEVELOPMENT AUTHORITY.
  2. **Final Completion:** Final completion of all the Work including Corrective Work shall be achieved within **30 calendar days** from certified Substantial Completion.
- 2.2 Basis of Payment and Retainage:** Payment shall be made on the basis of prices given in the proposal. Lump sum prices shall be paid on the percent complete based upon a breakdown of lump sum items in the Proposal and materials delivered to the job site. Unit prices will be applied to the actual quantities furnished and installed, as specified, in order to determine payment. **For each application of payment, the owner shall retain a sum equal to (10%) ten percent of total earned amount.**
- 2.3 Liquidated Damages:** Contractor and Owner recognize that time is of the essence and is an essential element of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in 2.1 above, plus any extensions thereof allowed in accordance with the General Conditions. The parties also recognize the delays, expense, and difficulties involved in legally proving the true value of the damages which the Owner will sustain by failure of the Contractor to complete the Work on time.
- 2.3.1 Substantial Completion - Accordingly, instead of requiring any such proof, Owner and Contractor agree that in the event that the work to be done under this Contract is not substantially completed within the times specified (and such additional extension of time as the Owner may have granted), the Owner will retain from the compensation otherwise to be paid to the Contractor, including progress payments, the sum of **\$5,000** or each additional day required to bring the work to substantial completion.
1. Substantial completion is achieved when all items of work are completed in accordance with the Contract Documents, so that the project can be safely, conveniently and beneficially utilized for the purposes for which it is intended.
- 2.3.2 Final Completion - After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times or any proper extension thereof granted by Owner, the Owner will retain from the compensation otherwise to be paid to the Contractor, including progress payments, the sum of **\$2,000.00** or each additional day required to bring the work to Final Completion.
1. Final Completion is achieved when all corrective or punch list work is complete and the project is totally and completely capable of being utilized for the purposes for which is intended.

2.3.3 These fixed liquidated damages, as stated above, are established not as a penalty but are calculated and agreed upon in advance by the Owner and the Contractor due to the uncertainty and impossibility of making a determination as to the actual and consequential damages incurred by the Owner as a result of the failure on the part of the Contractor to complete the Work on time. The parties agree that the stipulated sum is a reasonable estimate of the probable loss by Owner. Such liquidated damages referred to herein are intended to be and are cumulative and shall be in addition to every other remedy now or hereafter enforceable at law, in equity, by statute, or under the Contract.

## **2.4 Contract Time Adjustments**

2.4.1 The Contractor shall be compensated monetarily for extra and additional work. Contract time adjustments shall be limited to work associated with major work items which have been increased or decreased in the amount of 100% or more by an approved Change Order. Major Work Items are those items that make up a minimum of 20% of the total contract amount. The Contractor shall perform any additional Work concurrently with the original Work, and shall use additional manpower, additional shifts, overtime or other means to maintain the project schedule and Contract time.

## **2.5 Special Times and Work Restrictions**

2.5.1 No work, shall be performed between the hours of 9:00 p.m. and 7:00 a.m., nor on Sunday, except such work as is required and described in the contract document unless specific work task, within these restricted hours is requested in writing 48 hours prior to the proposed work or is necessary for the proper care and protection of the Work already performed, or except in case of any emergency, in which event the permission of the Project Manager to do such work shall be secured.

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**ARTICLE 3 – SUPERVISION AND CONSTRUCTION CONSIDERATIONS**

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**3.1 Supervisory Personnel**

- 3.1.1 The Contractor shall employ and have at all times as his agent a competent Project Superintendent whose sole responsibility is to oversee the project. The Project Superintendent shall be knowledgeable and familiar with all aspects of the Work including Traffic Control and Erosion Control. The Superintendent shall have full authority to supply promptly such materials, tools, plant equipment, and labor as may be required to perform work and meet scheduled deadlines. The Superintendent shall be present on the project on a daily basis and maintain close communication with the Project Manager at all times. He shall work closely with the Project Manager or his representative in coordinating the various tasks of the project including layout of the work, measuring and quantifying items for payment, preparing long term schedules, ensuring signing and clean up are performed satisfactorily, handling citizen complaints and any other tasks to ensure the project runs smoothly. At no time will the project be under construction without an assigned and approved Superintendent. Crew foremen will not be allowed to be substituted for the Project Superintendent. All communications given to the Project Superintendent shall be as binding as if given to the Contractor.
- 3.1.2 The Contractor, within **10 days** after award of the contract, shall furnish in writing to the Project Manager the names and qualifications of the Project Manager, Project Superintendent and other foreman level supervisory personnel. The Project Manager will promptly reply to the Contractor if after due investigation, he has reasonable objection to the personnel listed. Any changes in personnel after the project is under construction must be approved **10 days** prior to any change.

**3.2 Conformance with Specification**

- 3.2.1 The Contractor shall accomplish all work under this Contract in accordance with the “Specifications for the Stone Industrial Park Phase A” Section 00900.

**3.3 Utilities**

- 3.3.1 The Contractor must verify locations of water, sanitary, drainage, power and telephone installations and pipelines along the Work route or in the vicinity of the Work in the field. The Contractor shall uncover these pipes, ducts, cables, etc. carefully, by hand prior to any work which might result in damage to the utility. Any discrepancies found thereby which might affect the prosecution and completion of the Work shall be brought to the attention of the Project Manager in order that any necessary changes may be made to permit completion of the Work. The Contractor shall be responsible for any damage to any such pipes, conduits, or

structures. These conditions are supplemental to general requirements elsewhere in these Contract Documents.

- 3.3.2 The Contractor shall maintain, keep in service, and protect against damage to existing utilities during construction. The Contractor shall not interrupt existing utilities serving occupied or used facilities, except when authorized in writing by authorities having jurisdiction. He shall provide temporary services during interruptions to existing Utilities, as acceptable to governing authorities. Indicated utilities shall be disconnected and sealed before starting demolition operations as part of this work.

### **3.4 Protection of Property**

- 3.4.1 The Contractor shall protect all property that may be affected by his work or operations. The location and extent of underground and covered facilities are not guaranteed, and the Contractor is cautioned to proceed with care in order to prevent the undermining or damage to existing structures, piping or facilities.
- 3.4.2 When a public water source is being used, the supply source shall be protected against contamination in accordance with existing codes and regulations. In the event any of the Contractor's activities disrupt or endanger any facilities, he shall, at his own expense, make all necessary repairs or replacements to correct the situation to the satisfaction of the Project Manager. Such work shall progress continuously to completion on a 24-hour per day, seven workdays per week basis. The Contractor shall be responsible for the services of repair crews on call 24 hours per day for emergencies that arise involving Work under this Contract.

### **3.5 Weather Conditions**

- 3.5.1 The Contractor is presumed to have taken all difficulties due to weather conditions into consideration in preparing his proposal and in establishing his time for completion of the Work of this contract. Work that may be adversely affected by inclement weather shall be suspended until proper conditions prevail. In the event of impending storms, the Contractor shall take necessary precautions to protect all work, materials and equipment from exposure. The Owner reserves the right, through the opinion of the Project Manager, to order that additional protection measures over and beyond those proposed by the Contractor, be taken to safeguard all components of the project. The Contractor shall not claim any compensation from the Owner for damage to the work from the elements of weather.
- 3.5.2 Weather will not be accepted as a justifiable reason for extension of time unless such should be abnormal. The following chart represents the number of calendar days per month that are

considered normal for rain and wet ground conditions preventing work from being performed. Days not worked due to rain or wet ground conditions beyond those listed may be considered for claims for adjustment of time.

<b>January .....12</b>	<b>May.....6</b>	<b>September.....5</b>
<b>February.....11</b>	<b>June.....6</b>	<b>October.....4</b>
<b>March .....10</b>	<b>July.....7</b>	<b>November.....7</b>
<b>April.....8</b>	<b>August.....6</b>	<b>December.....9</b>

### **3.6 Fire Protection**

- 3.6.1 The Contractor shall take all necessary precautions to prevent fires at or adjacent to the work, including his own buildings and trailers. Adequate fire extinguisher and hose line stations shall be provided throughout the work area.
- 3.6.2 All workers shall be instructed and reminded by use of signs as to the dangers of explosion in the project area. Careless smoking by workers is prohibited, and it is the Contractor's responsibility to police his workers as well as subcontractors' and suppliers' personnel at the job site in this regard. All foremen and supervisors shall be informed as to the locations of fire alarm stations.
- 3.6.3 In the event that a hazardous explosion condition is created or discovered, the Contractor shall immediately notify the local Fire Department. The Contractor shall exercise all safety precautions and comply with all instructions issued by the Fire Department to prevent the occurrence of fire or explosion.

### **3.7 Safety and Health Requirements**

- 3.7.1 The Contractor shall comply in every respect with all Federal, State and Local safety and health regulations. Copies of the Federal Regulations may be obtained from the U.S. Department of Labor, Occupational Safety and Health Administration.
- 3.7.2 The Contractor shall, when required, furnish evidence satisfactory to the Project Manager that materials and methods are in accordance with such standards or codes, copies of which shall be supplied on site by the Contractor.
- 3.7.3 Flaggers shall be GDOT-certified and shall have a current card in possession at all times while performing flagging operations. Reflective safety vests should be worn by flaggers and by workers while working in road.

#### **ARTICLE 4 – PERMITS AND LICENSES**

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- 4.1** The Contractor shall comply in every respect with all applicable laws, regulations, and building and construction codes of the Federal Government, the State of Georgia, THOMSON MCDUFFIE DEVELOPMENT AUTHORITY, and any other agency having jurisdiction over the work. He shall obtain all building and construction permits required for the Work and shall, with respectful notice, call for and obtain necessary inspections as required by these agencies.

#### **ARTICLE 5 – PROJECT MEETINGS**

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##### **5.1 Preconstruction**

- 5.1.1 A Preconstruction meeting shall be held to acquaint representatives of the Owner and various agencies with those in responsible charge of the Contractor's activities for the project. The meeting will cover such subjects as insurance certificates, permits and licenses, affirmative action employment, construction schedules, soil erosion control, cost breakdown and applications for payment, material deliveries, storage, shop drawings and submittals, job site inspection by the Project Manager, safety and emergency action procedures, field offices, security, and other appropriate matters.

##### **5.2 Monthly Meetings**

- 5.2.1 Monthly Progress Meetings will be held at a time specified by the Owner and shall correlate with the gathering of quantities for payment. The meeting will cover such items as progress of the Work, updated construction schedules, pay quantity summaries, change orders, traffic control, utility coordination, shop drawings and submittals, job site inspection, soil erosion control, safety, security, and any concerns that may have arisen since the last progress meeting. The Project Manager will prepare a brief summary report of the decisions or understanding concerning each of the items discussed at these meetings. The Contractor shall be prepared to provide a narrative report at the Project Coordination Meetings. The report shall include the following:
1. A description of the overall Project status and comparison to the Original Project Schedule.
  2. Identification of activities which are behind schedule and a description of corrective action to be taken.

### 5.3 Job Site

- 5.3.1 The Project Manager or Contractor may call for special job site meetings for the purpose of resolving unforeseen problems or conflicts that may impede the construction schedule. The Project Manager will prepare a brief summary report of the decisions or understanding concerning each of the items discussed at these meetings.

## ARTICLE 6 – DESIGN SPECIFICATIONS

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### 6.1 Design Specifications

- 6.1.1 **Design Methods** – The Project will be design in a manner consistent with the accepted engineering practices and published documents.
- 6.1.2 **Materials** – Unless specified or approved by the Project Manager, all structures and pipes should be concrete meeting the Georgia Department of Transportation (GDOT) standards.

## ARTICLE 7 – CONSTRUCTION METHODS

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### 7.1 Construction Methods

All construction means and methods shall be consistent with industry accepted practices consistent with the Standard Specifications Construction of Transportation Systems, latest edition as published by the Georgia Department of Transportation.

## ARTICLE 8 - SUBMITTALS

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### 8.1 Schedule

**Within ten days after award of the Contract, the Contractor shall prepare and submit three (3) copies of his proposed long-range progress schedule to the Project Manager for review and comments.** The schedule shall reflect activities against time, broken down by specific task and activities and shall be updated monthly and submitted along with the Request for Payment.

### 8.2 Weekly Progress Schedule

A Weekly Progress Schedule shall be updated weekly showing work scheduled for the upcoming week. This schedule shall be presented to the Project Manager no later than the end of workday on the Thursday before the week scheduled.

### **8.3 Work Interruptions**

When work is interrupted or delayed more than two (2) days, the contractor shall notify the Project Manager 24 hours prior to resuming work.

### **8.4 Supervisory Personnel**

The Contractor, within 10 days after award of the contract, shall furnish in writing to the Project Manager the names and qualifications of the Project Manager, Project Superintendent and other foreman level supervisory personnel. The Project Manager will promptly reply to the Contractor if after due investigation, he has reasonable objection to the personnel listed. Any changes in personnel after the project is under construction must be approved 10 days prior to any change.

### **8.5 Material Suppliers**

The Contractor, within 10 days after award of the contract, shall furnish in writing to the Project Manager the names of suppliers for each portion of the Work. The Project Manager will promptly reply to the Contractor in writing after due investigation if he has reasonable objection to the suppliers listed.

### **8.6 Product Data**

- 8.6.1** Where manufacturer's publications in the form of catalogs, brochures, illustrations, or other data sheets are submitted in lieu of prepared shop drawings, such submission shall specifically indicate the particular item offered. Identification of such items and relative pertinent information shall be made with indelible ink. Submissions showing only general information will not be accepted.
- 8.6.2** Product data shall include materials of construction, dimensions, performance, characteristics, capacities, piping, controls, etc.

### **8.7 Samples**

- 8.7.1** The Contractor shall furnish for review all samples as required by the Contract Documents or requested by the Project Manager.
- 8.7.2** Samples shall be of sufficient size or quantity to clearly illustrate the quality, type, range of color, finish or texture and shall be properly labeled to show the nature of the work where the material represented by the sample will be used.

- 8.7.3 Samples shall be checked by the Contractor for conformance to the Contract Documents before being submitted to the Project Manager and shall bear the Contractor's stamp certifying that they have been so checked. The Contractor shall prepay transportation charges on samples submitted to the Project Manager.
- 8.7.4 The Project Manager's review will be for compliance with the Contract Documents, and his comments will be transmitted to the Contractor with reasonable promptness.
- 8.7.5 Accepted samples will establish the standards by which the completed work will be judged.

### 8.8 Project Record Drawings, As-Built and Documents

Before Final Acceptance of the Project, the Contractor shall submit to the Project Manager certain records, certifications, etc., which are specified elsewhere in these Contract Documents. Missing, incomplete, or unacceptable items, as determined by the Project Manager or Owner, shall constitute grounds for withholding Final Payment to the Contractor. A partial list of such items appears below, but it shall be the Contractor's responsibility to submit any other items, which are required by the Contract Documents:

- 8.8.1 **As-Built Requirements.** During the entire construction operation, the Contractor shall maintain records of all deviations from the Plans and Specifications and shall prepare there from record drawings showing correctly and accurately all changes and deviations made during construction and showing completely the Work as it was actually constructed. These drawings shall conform to the recognized standards of drafting, shall be neat, legible, and on Mylar or other approved reproducible material, shall be provided electronically and shall include at a minimum the following:

1. Stormwater Management As-builts

## ARTICLE 9 UTILITIES AND SERVICES

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### 9.1 Temporary Water

The Contractor shall provide temporary water. **Hydrant meters must be acquired from THOMSON MCDUFFIE DEVELOPMENT AUTHORITY Public Utilities and installed prior to usage of hydrants.**

**9.2 Temporary Sanitary Facilities**

The Contractor shall provide and maintain adequate and clean sanitary facilities for the construction workforce. The facilities shall comply with local codes and regulations and be situated at approved locations.

**9.3 Drought Conditions**

The contractor shall adhere to all State and Local Mandated Water restrictions during construction. THOMSON MCDUFFIE DEVELOPMENT AUTHORITY shall not be held responsible for any violation that might occur on the job site. The Contractor shall provide proof of water source while on job site when applicable.

**ARTICLE 10 SECURITY**

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- 10.1** The Contractor shall, if in his opinion it is necessary, employ watchmen and security guards to protect the job site against vandalism, burglary, theft, trespassing, etc. The Contractor shall care for and protect against loss or damage all material and equipment to be incorporated in the Work for the duration of the Contract, and shall repair or replace any damaged or lost materials or equipment.

**ARTICLE 11 SPECIAL CONTROLS**

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**11.1 Chemicals**

All chemicals used during project construction or furnished for testing or project operation will be required to show approval of the Environmental Protection Agency. The handling, use, storage, and disposal of such materials, containers, or residues shall be in strict conformance with manufacturer's and/or supplier's instructions. Copies of antidote literature shall be kept at the storage site and at the Contractor's job site office.

**11.2 Soil Erosion Control**

The Contractor shall be responsible for controlling soil erosion and sedimentation resulting from the Work until all disturbed areas have been permanently stabilized. He shall not allow the Work to cause siltation of any creek, stream, tributary, river, pond, lake, or other body of water. All of the Work shall be accomplished in conformance with the current edition of the "Manual for Erosion and Sediment Control in Georgia," published by the Georgia Soil and Water Conservation Commission.

### 11.3 Litter and Rubbish

The Contractor shall be responsible for maintaining the job site free from litter, rubbish and garbage.

### 11.4 Periodic Clean-Up; Basic Site Restoration

- 11.4.1 During construction the Contractor shall on a daily basis clean all roadway surfaces of dirt, dust, milled asphalt or aggregate, excess asphalt, liquid asphalt or emulsion from paving operations or any other accumulated construction debris. This includes but not limited to vegetation bladed off roadway onto the shoulder, milled asphalt or aggregate left in roadway, gutter or on shoulder, any excess asphalt left over from the paving operation, any liquid or emulsion staining resulting from spilling or rain-washing liquid on to curbs, gutters, or sidewalks, or excess aggregate from chip seal operations. Dust shall be controlled by periodic wetting and sweeping and as set forth in GDOT Section 161.01. If required by the Project Manager, a vacuum type street sweeper shall be employed at the end of each day to sweep and clean all surfaces to the satisfaction of the Project Manager. Failure to satisfy this requirement shall be sufficient cause for the Project Manager to stop all work until the clean-up is performed. If the Project Manager deems it necessary the contractor shall clean any dust, dirt or debris resulting from the work from vehicles, buildings, walkways, parking lot pavements or other structures. All clean up shall be performed to the satisfaction of the Project Manager. Failure to satisfy this requirement shall be sufficient cause for the Project Manager to stop all work until the clean-up is performed.
- 11.4.2 When the work involves installation of sewers, drains, water mains, manholes, underground structures, or other disturbance of existing features in or across streets, rights-of-way, easements, or private property, the Contractor shall (as the work progresses), promptly backfill, compact, grade, and otherwise restore the disturbed area to a basic condition which will permit resumption of pedestrian or vehicular traffic and any other critical activity or function consistent with the original use of the land. Unsightly mounds of earth, large stones, boulders and debris shall be removed so that the site presents a neat appearance.
- 11.4.3 The Contractor shall perform the clean-up work on a daily basis and as frequently as ordered by the Project Manager. Basic site restoration in a particular area shall be accomplished immediately following the installation or completion of the required facilities in that area. Furthermore, such work shall also be accomplished, when ordered by the Project Manager, if partially completed facilities must remain incomplete for some time period due to unforeseen circumstances. Sweeping of roadways will be a daily requirement at the end of the work day, and as needed.
- 11.4.4 Upon failure of the contractor to perform periodic clean-up and basic restoration of the site to the Project Manager's satisfaction, the Project Manager may, upon five (5) days prior written notice to the Contractor, employ such labor and equipment as he deems necessary for the purpose, and all costs resulting there from shall be charged to the Contractor and deducted from the amounts of money that may be due him.

**ARTICLE 12 TRAFFIC REGULATIONS AND MAINTENANCE OF TRAFFIC FLOW**

**12.1 Compliance with Regulations**

The Contractor shall obey all traffic laws and comply with all the requirements, rules and regulations of the Georgia State Department of Transportation, THOMSON MCDUFFIE DEVELOPMENT AUTHORITY and other local authorities having jurisdiction, to maintain adequate warning signs, lights, barriers, etc., for the protection of traffic on public roadways and any detours required by the Work.

**12.2 Parking**

No vehicles shall be parked on sidewalks outside of the construction phase currently in progress or in commercial parking lots without written permission from the property owner or business manager. All sites for parking must be approved by the Project Manager prior to use. The Contractor shall be responsible for enforcing on-site parking regulations. The movement of vehicles from the worksite, and notifications of advance work shall be the responsibility of the contractor. The Contractor shall make every effort to ensure that vehicles will not interfere with the prosecution of the work by providing advance notification of work to be performed.

**12.3 Spillage**

All dirt or other material spilled from the Contractor's vehicles on existing pavements shall be removed by the Contractor whenever, in the opinion of the Project Manager, the accumulation is sufficient to cause the formation of mud, dust, interference with traffic, or create a traffic hazard.

**ARTICLE 13 EQUIPMENT AND MATERIALS**

**13.1 Quality**

All construction materials and products will be furnished from Georgia Department of Transportation certified suppliers and shall conform to the current Georgia Department of Transportation Standards and Specifications.

**13.2 Delivery Schedule**

Equipment and materials to be incorporated in the Work shall be delivered sufficiently in advance of their installation and use to prevent delay in the execution of the Work, and they shall be delivered, as nearly as feasible, in the order required for executing the Work. Deliveries shall be

scheduled to minimize space and time requirements for storage of materials and equipment at the job site.

### **13.3 Storage**

The Contractor shall store his equipment and materials at the job site in accordance with the manufacturer's recommendations and as directed by the Project Manager. He shall not store unnecessary materials or equipment on the job site and shall prevent any structure from being overloaded and endangering the safety of his or THOMSON MCDUFFIE DEVELOPMENT AUTHORITY personnel. The Contractor shall enforce the instructions of the Owner and the Project Manager regarding the posting of regulatory signs for loading on structures, fire safety and smoking areas.

### **13.4 Quality Assurance**

If any Work (including the work of others) that is to be inspected, tested or approved is covered by the Contractor prior to such inspection, testing, or approval, it must, if requested by the Project Manager, be uncovered for observation. Such uncovering shall be at the Contractor's expense unless the Contractor has given the Project Manager timely notice of the Contractor's intention to cover the same and the Project Manager has not acted with reasonable promptness in response to such notice.

Neither observations by the Project Manager nor inspections, tests or approvals by others shall relieve the Contractor from the Contractor's obligations to perform the Work in accordance with the Contract Documents.

## **ARTICLE 14 FINAL SITE CLEANUP SITE RESTORATION**

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### **14.1 Cleaning**

Before finally leaving the site, the Contractor shall clean all exposed surfaces that have become soiled or marked. The Contractor shall remove from the site of the Work all accumulated debris and surplus material of any kind which results from his operation, including construction equipment, tools, sheds, sanitary fixtures, etc. This includes but is not limited to vegetation bladed off of roadway onto the shoulder; milled asphalt or aggregate left in road, gutter or on shoulder, any excess asphalt from paving operations, any liquid asphalt/emulsion or staining resulting from spillage or from rain washing liquid asphalt/emulsion onto curbs, gutters and sidewalks. All clean-up shall be performed to the satisfaction of the Project Manager. The completed project shall be turned over to the Owner in a neat and orderly condition.



## **14.2 Damage**

The Contractor shall repair all damage caused as a result of his Work under the Contract, including but not limited to existing structures, pavement, driveways, curbs & gutters, sidewalks, utility poles, utility pipelines, conduits, drains, catch basins, fences, and other obstructions not specifically mentioned herein.

All property line monuments outside the limits of construction disturbed by the Contractor during the prosecution of the Work shall be reset by a professional land surveyor licensed by the State of Georgia, at the Contractor's expense.

## **ARTICLE 15 CONSTRUCTION MANAGER AND GENERAL CONTRACTOR'S RESPONSIBILITIES**

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### **15.1 General**

The successful Construction Manager will be responsible for furnishing all labor, equipment, services, and support facilities for the following project elements, including but not limited to:

- 15.1.1 Validate Engineer's design—Construction Manager will evaluate the design as it is originally intended and compares it to the scope of work with both the required budget and schedule to determine if the scope can be executed within those constraints. A validated design is one that can be constructed within the budget and schedule constraints of the project.
- 15.1.2 Assist and provide input to Engineer design—the Construction Manager will offer ideas and cost information to the designer to be evaluated during the design phase. Ultimately, the Engineer is still responsible for the design.
- 15.1.3 Design reviews—done to identify errors, omissions, ambiguities, and with an eye to improving the constructability and economy of the design submittal.
- 15.1.4 Constructability reviews—review of the capability of the industry to determine if the required level of tools, methods, techniques, and technology are available to permit a competent and qualified Construction Manager and General Contractor to build the project feature in question to the level of quality required by the contract.
- 15.1.5 Market surveys for design decisions—furnish Engineer with alternative materials or equipment along with current pricing data and availability to assist them in making informed design decisions early in the process to reduce the need to change the design late in the process resulting from budget or schedule considerations.

- 15.1.6 Verify take-off quantities—the Construction Manager verifies the quantities generated by the Engineer for the engineer's estimate.
- 15.1.7 Feasibility studies—Construction Manager investigates the feasibility of possible solutions to resolve design issue on the project.
- 15.1.8 Assistance shaping scope of work to ensure that the work conforms to the budget and schedule constraints.
- 15.1.9 Risk Identification and mitigation
- 15.1.10 Maintenance of Traffic— Review, validate and/or propose alternative traffic handling concepts for project
- 15.1.11 Staging needs— Reviews, validates and/or proposes alternative stage construction concepts for project.
- 15.1.12 Analyze Environmental Permits— Review Environmental Permits when requested by the Owner and/or Engineer. Advise of impacts and alternative solutions to comply.

## **15.2 Cost-Related Preconstruction Services**

- 15.2.1 Validate Engineer's estimates—constructor evaluates the estimate as it is originally intended and determines if the scope can be executed within the constraints of the budget.
- 15.2.2 Prepare project estimates—General Contractor provides real-time cost information on the project at different points in the design process to ensure that the project is staying within budget.
- 15.2.3 Cost engineering reviews—review that includes not only the aspects of pricing but also focuses on the aspect that "time equals money" in construction projects.
- 15.2.4 Early award of critical proposal packages—Construction Manager recommends which design packages should be completed first to ensure that pricing can be locked in on the packages.
- 15.2.5 Value analysis—process that takes place during preconstruction where the Construction Manager identifies aspects of the design that either do not add value or whose value may be enhanced by changing them in some form or fashion. The change does not necessarily reduce the cost; it may actually decrease the life-cycle costs.
- 15.2.6 Value Engineering—systematic review by a qualified agency and/or Construction Manager personnel of a project, product, or process so as to improve performance, quality, safety, and life-cycle costs.

- 15.2.7 Material cost forecasting – The Construction Manager utilizes its contacts within the industry to develop estimates of construction material escalation to assist the Owner and Engineer make decisions regarding material selection and early construction packages.
- 15.2.8 Cost risk analysis—furnishing the Owner with information regarding those cost items that have the greatest probability of being exceeded.
- 15.2.9 Cost control – Construction Manager conducts earned value analysis to provide the Owner and Engineer with information on how project financing must be made available to avoid delaying Project progress. This may also include an estimate of construction carrying costs to aid the Owner in determining projected cash flow decisions.

### **15.3 Schedule-Related Preconstruction Service**

- 15.3.1 Validate Owner and Engineer schedules—Construction Manager evaluates if the current scope of work can be executed within the constraints of the schedule.
- 15.3.2 Prepare project schedules—Construction Manager prepares schedules throughout the design phase to ensure that dates will be met, and notify the owner when issues arise.
- 15.3.3 Participate with the sequence of design work—the Construction Manager participates in the sequences of the design work to mirror the construction work, so that early work packages can be developed.
- 15.3.4 Construction phasing – The Construction Manager develops a construction phasing plan to facilitate construction progress and ensure maintenance of traffic. This includes identification of critical parcel acquisition and utility relocations.
- 15.3.5 Schedule risk analysis/control—the Construction Manager evaluates the risks inherent to design decisions with regard to the schedule and offers alternative materials, means and/or methods to mitigate those risks.

### **15.4 Administrative-Related Preconstruction Services**

- 15.4.1 Biddability reviews — The Construction Manager reviews the design documents to ensure that subcontractor work packages can be bid out and receive competitive pricing. This action reduces the risk to the subcontractors because they are given the specific design product they need for their bids; not just told to find their work inside the full set of construction documents.
- 15.4.2 Assist in right-of-way acquisition – The Construction Manager assists the Engineer in identifying options for right-of-away acquisitions by providing means and methods input. The primary purpose is to minimize the amount of right-of-way actions that must be undertaken and to assist in prioritizing individual parcel acquisition.

15.4.3 Teamwork/Partnering meetings/sessions.

15.4.4 Analyze third party agreements/permits/work around— Review agreements, permits and work around (commitments) made to third parties (i.e. utility owners, property owners) and determine and/or identify feasibility of commitment. Advise of impacts and alternative solutions to comply.

## **15.5 Additional Project Documentation**

15.5.1 To provide additional information pertaining to Project development by the Department documents are being made available to potential Proposers. These documents can be found on BidSync.com.

1. Approved Project Reports
2. Preliminary construction staging plans.
3. Preliminary structures general plans
4. Authority's National Targeted Hiring Initiative Plan

**END OF SECTION**

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### SPECIFICATIONS

All work shall be in accordance with the Georgia Department of Transportation (GDOT) Standard Specifications of Transportation Systems, 2021. Specific attention is given to the following specifications:

#### **SECTION 150 – TRAFFIC CONTROL**

**Traffic Control** shall be in compliance with the Construction Plans and the “Standard Specification for Road and Bridge Construction” latest edition and Special Provision - Section 150 - Traffic Control, published by the Georgia Department of Transportation as well as any supplements, revisions or special provisions of the Georgia Department of Transportation or City of Winterville, and shall be in reasonably close conformance with the details shown on the plans or established by the Project Manager.

The Contractor shall, at all times, so conduct his work as to assure the least possible obstruction of traffic. The Contractor shall provide for the protection, safety and convenience of the general public, property owners and property along the work route. The Contractor shall furnish, install and maintain all necessary and required barricades, signs and other traffic control devices in accordance with the Construction Plans and the Manual on Uniform Traffic Control Devices, and he shall take all necessary precautions for the protection of the work and the safety of the public including but not limited to use of orange safety fencing.

This section, as supplemented by the Plans, Specifications, and Manual on Uniform Traffic Control Devices (MUTCD) shall be considered in development of the traffic control plan. Activities shall consist of furnishing, installing, maintaining, and removing necessary traffic signs, electronic message boards, barricades, cones, pavement markings, and other traffic control devices and shall include flagging and pilot car for guidance and protection of vehicular and pedestrian traffic through the Work Zone. This Work shall include both maintaining existing devices and installing additional devices as necessary in construction work zones. When any provisions of this Specification or the Plans do not meet the minimum requirements of the Manual on Uniform Traffic Control Devices (MUTCD), the MUTCD shall control.

The Worksite Traffic Control Supervisor (WTCS) shall have a copy of Part VI of the MUTCD, on the job site.

#### **Copies of the current MUTCD may be obtained from:**

<http://mutcd.fhwa.dot.gov>

U.S. Government Printing Office  
Superintendent of Documents  
Mail Stop: SSOP  
Washington, D.C. 20402-9328

U. S. Government Bookstore  
999 Peachtree Street, N.E.  
Suite 120  
Atlanta, GA 30309  
Phone: (404) 347-1900  
Fax: (404) 347-1897

#### **Enforcement:**

The safe passage of pedestrians and traffic through and around the temporary traffic control zone, while minimizing confusion and disruption to traffic flow, shall have priority over all other Contractor activities. Continued failure of the Contractor to comply with the requirements of this Section 150 (TRAFFIC CONTROL) will result in non-refundable deductions of monies from the Contract as shown in this Sub-Section for non-performance of Work.

Failure of the **Contractor** to comply with this Specification shall be reason for the **Project Manager** suspending all other Work on the Project, except erosion control and traffic control, taking corrective action as specified in Sub-Section 105.15 and/or withholding payment of monies due the **Contractor** for any work on the Project until traffic control deficiencies are corrected. These other actions shall be in addition to the deductions for non-performance of traffic control.

**Measurement and Payment:**

Payment for all traffic control measures as required by the Manual for Uniform Traffic Control Devices, as referenced above and/or as directed by the Project Manager shall be included in other pay items or as outlined by the Georgia Department of Transportation Standard Specifications, Construction of Transportation Systems and as otherwise outlined in this contract.

**SECTION 151 – MOBLIZATION**

The Contractor shall be responsible for mobilization of equipment compliance with the standards and specifications referenced below. This work includes preparatory work and operations, including but not limited to, moving personnel, equipment, supplies, and incidentals to the Project site. Mobilization also includes all other work and operations that shall be performed or costs incurred before beginning work on the various Items on the Project site.

**Measurement and Payment:**

Measurement and payment shall be made in compliance with the “Standard Specification for Construction of Transportation Systems,” Georgia Department of Transportation latest edition, Sections 151, published by the Georgia Department of Transportation and/or as detailed in Article 11 of the General Conditions of these Contract Documents. Payment for installation and maintenance of all the Erosion Control measures shown on the Construction Plans or otherwise directed by the Project Manager shall be included under pay item numbers.

**SECTION 163 AND 165 – MISCELLANEOUS EROSION CONTROL ITEMS AND MAINTENANCE OF TEMPORARY EROSION AND SEDIMENTATION CONTROL DEVICES**

The Contractor shall provide and maintain effective **Soil Erosion and Sedimentation Control** in compliance with the Georgia Erosion and Sedimentation Control Act of 1975, including amendments and the City of Winterville Soil Erosion and Sedimentation Control Ordinance.

In the establishment and maintenance of soil erosion and sedimentation controls, the Contractor shall comply with the standards established in the "Manual For Erosion And Sediment Control In Georgia," latest edition, published by the Georgia Soil And Water Conservation Commission as well as those in the "Standard Specifications for Road and Bridge Construction," Georgia Department of Transportation latest edition, Sections 163, and 165 as well as any supplements, revisions or special provisions of the Georgia Department of Transportation. Special attention should be given to Section 163 Special Provision.

In case of a conflict or difference between these documents, the decision of the Project Manager, as to which standard to use, shall prevail.

### SPECIFICATIONS

The location and quantity of erosion controls shown on the plans are subject to change depending on actual field conditions. Contractor shall consult with and receive direction from the Project Manager prior to erosion control layout and installation.

#### **Measurement and Payment:**

Measurement and payment shall be made in compliance with the "Standard Specification for Construction of Transportation Systems Construction," Georgia Department of Transportation latest edition, Sections 163 and 165, published by the Georgia Department of Transportation and/or as detailed in Article 11 of the General Conditions of these Contract Documents. Payment for installation and maintenance of all the Erosion Control measures shown on the Construction Plans or otherwise directed by the Project Manager shall be included under pay item numbers.

#### **SECTION 167 – WATER QUALITY MONITORING**

This Specification establishes the Contractor's responsibility to meet the requirements of the current National Pollutant Discharge Elimination System (NPDES) as it pertains to Part IV. Erosion, Sedimentation and Pollution Control Plan. In the case of differing requirements between this specification and the Permit, whichever is the more stringent requirement shall be adhered to.

#### **Measurement and Payment**

Measurement and payment shall be made in compliance with the "Standard Specification for Construction of Transportation Systems," Georgia Department of Transportation latest edition, Sections 167, published by the Georgia Department of Transportation and/or as detailed in Article 11 of the General Conditions of these Contract Documents. Payment for Water Quality Monitoring shown on the Construction Plans or otherwise directed by the Project Manager shall be included under pay item numbers.

#### **SECTION 171 – SILT FENCE**

The Contractor shall provide effective **Temporary Silt Fence** in compliance with the standards and specifications referenced below. This work consists of furnishing, installing, maintaining, and removing a water permeable filter fabric fence used to remove suspended particles from drainage water. The location of erosion controls shown on the plans are subject to change depending on actual field conditions. Contractor shall consult with and receive direction from the Project Manager prior to erosion control layout and installation.

The quantity of temporary silt fence to be installed may be affected by the actual conditions which occur during the construction of the project. The quantity of temporary silt fence may be increased or decreased at the direction of the Project Manager.

In the establishment of temporary silt fencing, the Contractor shall comply with the standards established in the "Manual For Erosion and Sediment Control in Georgia," latest edition, published by the Georgia Soil And Water Conservation Commission as well as those in the "Standard Specifications for Road and Bridge Construction," latest edition, Sections 165 and 171 as well as any supplements, revisions or special provisions of the Georgia Department of Transportation.

**Measurement and Payment:**

Measurement and payment shall be made under the Contract Proposal Schedule items in compliance with the “Standard Specification for Construction of Transportation Systems,” latest edition, Section 171, published by the Georgia Department of Transportation and/or as detailed in Article 11 of the General Conditions of these Contract Documents.

**SECTION 210 – GRADING COMPLETE**

The work of **Grading Complete** consists of the excavation of all materials of whatever nature, including unsuitable material (removal and replacement) and borrow unless provided for and covered elsewhere in the contract; all necessary hauling; formation of embankments; shoulder construction; subgrade construction; ditch excavation; and finishing and dressing and disposal of any unsuitable or surplus material. It shall include all necessary clearing and grubbing, required to complete the Work unless these items have been established as pay items in the Contract. It shall also include the removal and disposal of miscellaneous items, including but not limited to curbs, drainage structures, pavements and signs, unless established as separate in the Contract items. The grading work is to conform to the horizontal and vertical alignment and typical cross sections shown on the Plans or as directed, and shall be done in compliance with the Athens Housing Authority, and shall be in reasonably close conformance with the details, lines, and grades as shown on the plans or established by the Project Manager.

**Measurement and Payment:**

Measurement and payment for **Grading Complete** shall be made in compliance with the “Standard Specification for Construction of Transportation Systems,” latest edition, Section 210, published by the Georgia Department of Transportation and/or as detailed in Article 11 of the General Conditions of these Contract Documents.

**SECTION 441 – MISCELLANEOUS CONCRETE**

This work includes the work generally described in Section 441 of the “Standard Specifications for Construction of Transportation Systems,” latest edition.

**Measurement and Payment:**

Measurement and payment shall be made under the Contract Proposal Schedule items in compliance with the “Standard Specification for Construction of Transportation Systems,” latest edition, Section 441, published by the Georgia Department of Transportation and/or as detailed in Article 11 of the General Conditions of these Contract Documents.

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### SPECIFICATIONS

#### **SECTION 550 – STORM DRAIN PIPE, PIPE-ARCH CULVERTS, AND SIDE DRAIN PIPE**

This work includes furnishing and installing the following:

- Storm drain pipe
- Side drain pipe
- Pipe-arch culverts
- Elliptical pipe
- Flared end sections
- Safety end sections
- Tapered pipe inlets

Install structures according to the Specifications and the details shown on the Plans, or as directed by the Engineer.

#### **Measurement and Payment:**

Measurement and payment shall be made under the Contract Proposal Schedule items in compliance with the “Standard Specification for Construction of Transportation Systems,” latest edition, Section 550, published by the Georgia Department of Transportation and/or as detailed in Article 11 of the General Conditions of these Contract Documents.

#### **SECTION 603 – RIP RAP**

This work includes placing protective coverings of sand-cement bag rip rap or stone rip rap.

When required, this work includes placing crushed stone filter material or plastic filter fabric beneath stone rip rap on:

- Fill slopes
- Cut slopes
- End rolls
- Shoulders
- Ditches
- Stream banks
- Channel banks
- Other locations

This work includes the work generally described in Section 603 of the “Standard Specifications for Construction of Transportation Systems,” latest edition.

#### **Measurement and Payment:**

Measurement and payment shall be made under the Contract Proposal Schedule items in compliance with the “Standard Specification for Construction of Transportation Systems,” latest edition, Section 603, published by the Georgia Department of Transportation and/or as detailed in Article 11 of the General Conditions of these Contract Documents.

**SECTION 668 – MISCELLANEOUS DRAINAGE STRUCTURES**

This work includes constructing catch basins, drop inlets, manholes, junction boxes, spring boxes, drain inlets, special inlets with safety grates, and vertical tee sections.

Construct according to these specifications and the lines and grades shown on the plans, or as established by the Engineer.

**Measurement and Payment:**

Measurement and payment shall be made under the Contract Proposal Schedule items in compliance with the “Standard Specification for Construction of Transportation Systems,” latest edition, Section 668, published by the Georgia Department of Transportation and/or as detailed in Article 11 of the General Conditions of these Contract Documents.

**SECTION 700 – GRASSING**

This work includes preparing the ground, furnishing, planting, seeding, fertilizing, sodding, and mulching disturbed areas within the Right-of-Way limits and easement areas adjacent to the right-of-way as shown on the Plans except as designated by the Engineer to remain natural.

**Measurement and Payment:**

Measurement and payment shall be made under the Contract Proposal Schedule items in compliance with the “Standard Specification for Construction of Transportation Systems,” latest edition, Section 700, published by the Georgia Department of Transportation and/or as detailed in Article 11 of the General Conditions of these Contract Documents.

**END OF SECTION**