

Mayor
William Siegel
Mayor Pro Tem
Lois Wynne
Council Members
John Gordon
Eddie Neal
Willard Rodarmel



**Maintenance &
Fleet Divisions**

711 W. Cinnamon Dr.
Lemoore * CA 93245
Phone *(559) 924-6739
FAX * (559) 924-6808

Staff Report

ITEM 6

To: Lemoore City Council
From: Joe Simonson, Parks and Recreation Director 
Date: February 20, 2014
Subject: Authorization to Bid 2014 Reclamite Street Project

Discussion:

Staff would like to request authorization to request bids for the Capital Improvement 2014 Street Reclamite Sealing project. The selected streets are attached and were discussed with City Council last fall as part of the CIP budget process. The project area is quite large and will be completed in the 2014 year with approximately \$187,200 of the total funds being expended.

Bids will be brought to City Council for award at the April 1st meeting. Upon award of a bid, the construction period will commence within the month.

Budget Impact:

The Capital Improvement Expenditures is estimated to be \$242,689 at \$1.08 per square yard with \$187,277 from Gas Tax 033-4723C and \$55,412 will be paid through PFMD Zone 2 funds for its scheduled (five year) maintenance program.

Recommendation:

That the City Council, by motion, authorize staff to go out to bid for the 2014 Reclamite Sealing Project, as per described.

CITY OF LEMOORE

**2014 RECLAMITE SEAL PROJECT
Notice to Contractors, Bid Proposal,
General Provisions, Special Provisions,
Technical Specifications
and Contract Forms**



**QUAD KNOPF, INC.
5110 W. Cypress Avenue
Visalia, California 93277
559-733-0440**

FEBRUARY 2014

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BID CONDITIONS

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NOTICE INVITING SEALED PROPOSALS

NOTICE INVITING SEALED PROPOSALS (BIDS)
2014 RECLAMITE SEAL PROJECT

Sealed proposals will be received at the office of the City Clerk, City Hall, 119 Fox Street, Lemoore, CA 93245, until ____ p.m., _____, 2014 and promptly thereafter all proposals that have been duly received will be publicly opened and read aloud for furnishing to said City all labor, materials, equipment, transportation, and services necessary to perform work as follows:

CITY OF LEMOORE
2014 RECLAMITE SEAL PROJECT

Instructions to bidders, Plans, Specifications, and proposal forms may be inspected at the office of the City Engineer, c/o Quad Knopf, Inc., 5110 W. Cypress, Visalia, CA 93277, and copies of said documents may be obtained at said office upon payment of thirty-five dollars (\$35.00) for each set (nonrefundable). No bid will be received unless it is made on a proposal form furnished in the Documents. Special attention of prospective bidders is called to the "Proposal Requirements and Conditions" annexed to the blank form of proposal, for full directions as to bidding, etc. Any questions regarding this project during the bidding phase shall be directed to the Project Engineer, Mr. Harry A. Tow, and he will field the questions and provide the clarification or answers to your questions.

A certified check, cashier's check, or bidder's bond in the amount of ten percent (10%) of the Base Bid, made payable to the City of Lemoore, will be required to accompany each proposal.

The City of Lemoore is a charter City and has passed City ordinance 2000-07, exempting the payments of (STATE) prevailing wages from City projects.

All bids are to be compared on the basis of the City Engineer's estimate of the quantities of work to be done. The City of Lemoore reserves the right to reject any and all bids and to waive any informality in any bid received not affected by law. Proposals received after the time announced for the bid opening will not be considered. No bidder may withdraw their bid after the time announced for the bid opening.

The project, if awarded, will be based upon all work contemplated in the Base Bid.

No bids will be accepted from a Contractor who has not been licensed in accordance with the provisions of Chapter 9, Division III of the Business and Professions Code. The proper classification required to perform this Contract is "A", General Engineering Contractor, or a combination of specialty licenses that would include all items of work.

The Contractor may elect to receive 100 percent of payments due under the Contract documents from time to time, without retention from any portion of the payment by the City, by depositing securities of equivalent value with the City in accordance with the provisions of Section 22300 of the California Public Contract Code. Such securities, if deposited by the Contractor, shall be valued by the City, whose decision on valuation of the securities shall be final. Securities eligible for

investment under this provision shall be limited to those listed in Section 22300 and Section 16430 of the California Government Code.

City of Lemoore

Mary J. Venegas
City Clerk

INSTRUCTIONS TO BIDDERS

INSTRUCTIONS TO BIDDERS

A. CONDITIONS OF PROPOSAL

Proposals to receive consideration shall be made in accordance with the following instructions:

1. The proposal shall be made upon the forms provided and with all items legibly filled out in ink or typewritten. Amounts are to be stated in figures, and noted total amounts in words, and the signatures of all persons signing shall be written. Forms containing alterations or erasures shall be initialed by the bidder. Forms shall be delivered as specified in the *Notice Inviting Sealed Proposals (Bids)*.
2. Proposals shall contain only the quotations for which the form is prepared. Proposals are to be submitted for the entire work.
3. Each proposal shall be accompanied by a Certified or Cashier's check or bidder's Bond in an amount equal to ten percent (10%) of the proposal amount. Said check or bond shall be a guarantee that the bidder, if awarded the work, will enter into a contract within the time prescribed. The bid security of the two (2) lowest bidders will be retained until the contract is awarded. The bid securities of all other bidders shall be returned within two weeks of bid opening.
4. Proposals which are incomplete, unbalanced, conditional, or obscure, which contain additions not called for, erasures, alterations, or irregularities of any kind, or which do not comply with the *Notice Inviting Sealed Proposals (Bids)* and *Instructions to Bidders* may be rejected at the option of the City.

B. BIDDER'S QUALIFICATIONS

The bidder shall be a licensed contractor in accordance with the provisions of Chapter 9, Division III of the Business and Professional Code. Bidders shall possess a Class A license or a combination of Specialty Licenses that would include all items of work. No award will be made to a bidder who is not so licensed. The bidder shall, upon request, furnish evidence of responsibility as may be specified. The bidder shall complete the Statement of Licensure in the Proposal.

C. EXAMINATION OF CONDITIONS, DRAWINGS, ETC.

Bidders must examine and judge for themselves the nature of the proposed work and the work to be done. The Plans for the work will show conditions as they are supposed or believed by the Engineer to exist, but it is neither intended nor to be inferred that the conditions as shown thereon constitute a representation by the City or its officers that such conditions actually exist, nor shall the City or any of its officers or representatives be liable for any loss sustained by the Contractor as a result of any variance between conditions

shown on the Plans and the actual conditions as revealed during the progress of the work or otherwise.

The Contractor's attention is directed to the possible existence of pole lines, pipelines, building structures, and other private or public improvements which may be within the limits of work or adjacent thereto and may or may not be shown on the Plans.

D. INTERPRETATION OF DRAWINGS AND DOCUMENTS

If any person contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any part of the Plans, Specifications, or other proposed Contract Documents, or finds discrepancies, he may submit to the Engineer a written request for an interpretation or correction thereof. The person submitting the request will be responsible for its prompt delivery. Any interpretation or correction of the proposed documents will be made only by addendum duly issued, and a copy of any such addendum will be mailed or delivered to each person who has received a set of said documents. Neither the City nor the Engineer will be responsible for any other explanation or interpretation of the project documents.

E. ADDENDA OR BULLETINS

Any addenda or bulletins issued during the time of bidding shall become a part of the documents and shall be covered in the bid, and made a part of the contract. Acknowledgement of addenda or bulletins, as provided in the addendum or bulletin, shall be submitted with each proposal.

F. BIDDERS INTERESTED IN MORE THAN ONE BID

No person, firm, or corporation shall be allowed to make or file or be interested in more than one bid for the same work, except alternate bids which are called for. A person, firm, or corporation who has submitted a subproposal to a bidder, or who has quoted prices on material to a bidder, is not hereby disqualified from submitting a subproposal or quoting material prices to other bidders.

G. WITHDRAWAL OF PROPOSALS

Any bidder may withdraw his proposal, either personally or by a telegraphic, written, or faxed request, at any time prior to the scheduled time for the opening of the bids.

H. OPENING OF PROPOSALS

Bids will be opened publicly and examined. They will be tabulated for comparison on the basis of the total base bid price.

I. AWARD OR REJECTION OF BIDS

The City reserves the right to reject all bids, in which case no award will be made. If award is made, it will be made within thirty (30) calendar days of the bid opening and will be to the

single responsive, responsible bidder whose bid for construction is the lowest total base bid amount. The City reserves the right to reject any and all bids, and to waive any informality in the bids received. The Contractor shall bid on all of the items included in the bid form. No award will be made on the basis of individual bid items.

The bidder's attention is specifically directed to the requirements of the Contract Documents with respect to insurance, maintenance of facilities at the site of the work, and inspection.

In case of a discrepancy on the proposal between words and figures, the words shall prevail. If erasures or other changes appear on this proposal, each such erasure or other change must be initialed by the person signing the proposal.

In the event there are unit price Bid items and the amount indicated for a unit price Bid item does not equal the product of the unit price and quantity, the unit price shall govern and the correct amount will be computed accordingly, and the Bidder shall be bound by said correction. In the event there is more than one Bid item in a Bid Schedule and the total indicated for the Schedule does not agree with the sum of the individual items, the prices Bid on the individual items shall govern and the correct total for the Schedule will be computed accordingly, and the Bidder shall be bound by said correction.

J. TIME ALLOWED FOR SIGNING CONTRACT

The successful bidder or bidders will be allowed ten (10) calendar days after the date the contract is awarded to him to deliver to the City the contract with his signature affixed thereto, together with the prescribed Guarantee Bonds and Insurance Certificates and Special Endorsements. No proposal shall be considered binding upon the City until the execution of the contract. Failure to execute a contract and file the prescribed bonds and insurance certificates and special endorsements within the specified time will be just cause for the annulment of the award and the forfeiture of the proposal guarantee.

K. BID PROTEST PROCEDURE

The lack of prompt procedure to resolve disputes regarding the bidding process would impair the Owner's ability to carry out its purpose of contracting this project in a timely manner. Therefore, to the maximum extent authorized by law and notwithstanding any other procedures specified in these Contract Documents, all disputes and/or protests regarding the bidding process shall be subject to the following procedure. In submitting a Bid to the Owner for this project, the Bidder agrees to comply with and to be bound by this procedure.

1. Any Bid protest must be submitted in writing to the City before 5:00 p.m. on the fifth (5th) working day following Bid opening.
2. The Bid protest must contain a complete statement of the basis for the protest, and all supporting documentation. A non-refundable fee of One Thousand Dollars (\$1,000) made payable to the "City of Lemoore" shall accompany the protest documents and will be used by the Owner to recover costs in evaluating the bid protest. A bid protest

submitted without the requisite fee will be considered incomplete and will not be considered by the Owner.

3. The party filing the protest must have actually submitted a Bid for the work. A subcontractor of a party submitting a Bid for the work may not submit a Bid protest.
4. A party may not rely on the Bid protest submitted by another Bidder, but must timely pursue its own protest.
5. The protest must refer to the specific portion of the Contract Documents which forms the basis for the protest.
6. The protest must include the name, address and telephone number of the person representing the protesting party.
7. The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other Bidders, and the Bid protest must contain proof of service of the Bid protest on the other Bidders.
8. The protested Bidder shall have up to five (5) working days after the filing of a Bid protest to submit a written response. The responding Bidder shall transmit the response to the protesting Bidder concurrent with the deliver to the Owner.
9. The procedure and time limits set forth in this paragraph are mandatory and are the Bidder's sole and exclusive remedy in the event of Bid protest. The Bidder's failure to comply with these procedures shall constitute a waiver of any right to further pursue the Bid protest, including filing a Government Code Claim or legal proceedings.

The Owner will evaluate all proper Bid protests before the award of the contract to the lowest responsive and responsible Bidder.

PROPOSAL

**PROPOSAL TO THE
CITY COUNCIL
CITY OF LEMOORE
KINGS COUNTY, CALIFORNIA
FOR
2014 RECLAMITE SEAL PROJECT**

PROPOSAL OF _____ (hereinafter called "Bidder") organized and existing under the laws of the State of _____, doing business as _____.*

* Insert "a corporation," "a partnership," or "an individual" as applicable.

TO: The City Council, City of Lemoore
(Hereinafter called "City")

The undersigned, as bidder, declares that he has carefully examined the location of the proposed work, that he has thoroughly examined all the Contract Documents and Plans, and that this proposal is made without collusion with any other person, firm, or corporation, and that all laws and ordinances relating to the interest of public officers in the contract have been complied with in every respect; AND he proposes and agrees, if this proposal is accepted, that he will contract with the City in the form of contract contained herein to provide all necessary machinery, tools, equipment, and other means of construction, and to furnish all materials and provide superintendence, overhead expenses, and all labor and expenses of whatever nature to construct the work in accordance with the Plans and the detailed Specifications and other contract provisions contained herein or reasonably implied thereby, or as necessary to complete the work in the manner and within the time named herein and according to the requirements and to the reasonable satisfaction of the Engineer, and to indemnify the City against any loss or damage arising from any act of the undersigned as Contractor and that he will take as full payment therefor the sum stated below.

Bidder hereby agrees to commence work under this contract on or before the date specified in the written *Notice to Proceed* from the City, and to fully complete the project within the time allotted in the Special Provisions. Bidder further agrees to forfeit and pay the City for each calendar day of delay in the completion of the project as provided for in the Special Provisions.

The undersigned understands that the quantities given are approximate only, being given as a basis for the comparison of bids, and the City of Lemoore does not, expressly or by implication, warrant that the given quantities of work will be performed but reserves the right to increase or decrease the amounts of any portion of the work, or to omit portions of the work as may deemed necessary or advisable by the Engineer, without claim for damage or loss of anticipated profit. The undersigned understands that payment will be made only on the basis of the actual quantities or work performed. This proposal consists of the following:

- a. Bid form showing unit prices and the amount bid for each item of work.
- b. Noncollusion Affidavit.
- c. Information required of bidders including a list of subcontractors and a list of suppliers of major equipment and materials.
- d. Completed Statement of Licensure.
- e. Bid security in the amount of ten percent (10%) of the total amount of base bid in accordance with the stated requirements contained in the General Conditions.
- f. Qualifications of the Contractor

PROPOSAL

TO THE CITY OF LEMOORE:

The undersigned declares that he has carefully examined the location of the proposed work, that he has carefully examined the Plans and Specifications and hereby proposes to furnish all materials and do all the work required to complete the said work in accordance with said Plans and Specifications, for the prices as listed below:

CITY OF LEMOORE 2014 RECLAMITE SEAL PROJECT

BASE BID

ITEM	QNTY.	UNIT	ITEM WITH UNIT PRICE WRITTEN IN WORDS	PRICE	TOTAL
1.	L.S.	L.S.	*Mobilization, including bonds, permits, licenses, fees required to perform the work, complete and in place @ _____ _____ Dollars per Lump Sum Amount.	_____/L.S.	
2.	L.S.	L.S.	Provide, and Remove, all Temporary Signage and Traffic Control, complete and in place @ _____ _____ Dollars per Lump Sum Amount.	_____/L.S.	
3.	L.S.	L.S.	Apply _____ Square Yards of Reclamite Seal Coat, distributing, sanding and sand removal, complete and in place @ _____ _____ Dollars per Lump Sum Amount.	_____/L.S.	
4.	L.S.	L.S.	Replace all existing striping, pavement legends, and reflective markers as described in the Special Provisions, complete and in place @ _____ _____ Dollars per Lump Sum Amount.	_____/L.S.	
TOTAL BASE BID AMOUNT				\$	

Total Base Bid Amount (written in words) is _____
_____ Dollars and _____ Cents.

In the event of discrepancy between words and figures, the words shall prevail.

***Mobilization Lump Sum Item No. 1 shall not exceed 5% of Total Base Bid.**

List the name of the person who inspected the site of the proposed work for your firm:

_____. Date of Inspection: _____

NON-COLLUSION AFFIDAVIT

Project: City of Lemoore
 2014 RECLAMITE SEAL Project

TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

(Name)

being first duly sworn, deposes and says that he or she is

of

(Bidding Entity)

The party making the foregoing bid certifies that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

(Title 23 United States Code Section 112)

(California Public Contract Code Section 7106; Stats. 1988, c. 1548, Section 1)

Contractor

Date

Subscribed and sworn to before me this _____ day of _____, 2014

Notary Public

MAJOR MATERIAL SUPPLIERS INFORMATION

The bidder shall indicate opposite each item of material listed below the name of the manufacturer or supplier of the material proposed to be furnished under the bid. Failure to comply with this requirement may render the proposal informal and may cause its rejection.

Equipment/Material	Manufacturer or Supplier
1. Reclamite	_____
2. Sand	_____
3. Traffic Paint	_____
4. Reflectors	_____

Awarding a contract under this bid will not imply approval by the City of manufacturers or suppliers listed by the bidder. No substitution will be permitted after award of contract unless equipment or material of the listed manufacturer or supplier cannot meet the specifications.

We, the undersigned, further agree, if this proposal shall be accepted by the Owner, to sign the contract and to furnish the required bonds, with satisfactory surety or sureties, within ten (10) calendar days from the date of mailing of the Notice of Award, and if the undersigned shall fail to contract as aforesaid, it shall be understood that he has abandoned the contract and therefore this proposal shall be null and void and our certified check or bond shall be forfeited to and become the property of the City.

WITNESS our hands this _____ day of _____, 2014.

Signature of bidder or bidders with business address and phone number:

NOTICE: In case of a corporation, list below the names and addresses of the following officers:

President: _____

Secretary: _____

Treasurer: _____

Manager: _____

INFORMATION REQUIRED OF BIDDER

The bidder shall furnish the following information. Failure to comply with this requirement will render the Proposal non-responsive and may cause its rejection. Additional sheets shall be attached as required.

(1) Number of years as a contractor in construction work of this type: _____

(2) Names and titles of all officers of contractor's firm:

(3) Name of person who inspected site of proposed work for your firm: _____

Date of Inspection: _____

(4) Name, address, and telephone number of surety company and agent who will provide the required bonds on this contract: _____

(5) ATTACH TO THIS BID the experience resume of the person who will be designated chief construction superintendent.

(6) List up to five projects completed as of recent date involving Reclamite or asphaltic emulsion fog seal or asphalt rejuvenator work of similar type and complexity, preferably in urban areas:

Project: _____

Year: _____

Contract Price: _____

Name, address and telephone number of owner: _____

Name and telephone number of Contact Person: _____

Project: _____

Year: _____

Contract Price: _____

Name, address and telephone number of owner: _____

Name and telephone number of Contact Person: _____

Project: _____

Year: _____

Contract Price: _____

Name, address and telephone number of owner: _____

Name and telephone number of Contact Person: _____

Project: _____

Year: _____

Contract Price: _____

Name, address and telephone number of owner: _____

Name and telephone number of Contact Person: _____

Project: _____

Year: _____

Contract Price: _____

Name, address and telephone number of owner: _____

Name and telephone number of Contact Person: _____

STATEMENT OF LICENSURE

UNDER PENALTY OF PERJURY, I swear that the license or certificate of licensure (a copy of which is attached hereto) is mine, is current and valid, and is in a classification appropriate to the work to be undertaken.

Licensee

Contractor's License Number and Expiration Date

License Classification

Signed: _____

If the bidder possesses a current City of Lemoore Business License at Bid Day, the bidder certifies its number is _____, dated _____.

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that _____

_____, as Principal, and

_____, as Surety, are hereby held and firmly bound unto the City of Lemoore as Owner in the penal sum of _____

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

The condition of the above obligation is such that whereas the Principal has submitted to the City of Lemoore a certain bid, attached hereto and hereby made a part hereof, to enter into a contract in writing for the 2014 RECLAMITE SEAL PROJECT in the City of Lemoore for the City of Lemoore.

NOW THEREFORE.

- (a) If said bid shall be rejected, or in the alternate,
- (b) If said bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said bid) and shall furnish a bond for this faithful performance of said contract and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said bid, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as stated herein.

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

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

Executed on _____, 2014.

Principal

(Seal if Corporation)

By: _____

Title: _____

(Attached Acknowledgement of Authorized Representative of Principal)

Any claims under this bond may be addressed to:

(name and address of Surety)

(name and address of Surety's agent for services and process in California, if different from above)

(telephone number of Surety's agent in California, if different from above)

(Attach Acknowledgement)

Surety

Attorney-in-Fact

NOTICE: No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service and process in California. Certified copy of Power of Attorney must be attached.

AGREEMENT

AGREEMENT

THIS AGREEMENT, entered into by and between _____ hereinafter referred to as “Contractor”, and the City of Lemoore, hereinafter referred to as “the City;”

WITNESSETH:

WHEREAS, the City Council of said City has awarded a contract in the amount of \$_____ for performing the work hereinafter mentioned in accordance with the sealed proposal of said Contractor.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

A. SCOPE OF WORK

The Contractor shall perform all the work defined as the base bid and selected alternatives (if applicable) , and furnish all the labor, materials, equipment, and all utility and transportation services required to complete all of the work of construction and installation of the improvements at the time and in the manner provided in accordance with the Plans, Proposal, Special Provisions, Contract Documents, and Specifications for the 2014 RECLAMITE SEAL PROJECT in the City of Lemoore and the County of Kings for the City of Lemoore, the items, quantities, and compensation for which are set forth in the Contractor’s proposal therefore on file in the office of the City Manager of said City, and which by reference are made a part of this agreement.

B. COMPONENT PARTS

This Contract shall consist of the following documents, each of which is on file in the office of the City Manager of said City, and all of which are incorporated herein and made a part hereof by reference:

1. This Agreement.
2. Notice Inviting Sealed Proposals (bids).
3. Accepted Proposal.
4. Specifications.
5. Performance Bond.
6. Labor and Materials Bond.
7. Certification of compliance with State Labor Code Section 3700.
8. Plans, Detailed Drawings (Exhibits), Specifications, Special Provisions, and any Modifications to aforesaid prior to execution of this agreement.
9. Instructions to Bidders.
10. General Conditions.
11. City of Lemoore Standard Specifications.
12. Referenced Caltrans Standard Specifications.
13. Addresses.

C. TIME OF PERFORMANCE

The Contractor shall begin work within ten (10) consecutive calendar days after execution of the contract by the City and receipt of the *Notice to Proceed* from the City. The work shall be completed within the times set forth in the Special Provisions. Time is of the essence, and forfeiture due to delay will be assessed the Contractor as provided for in the Supplementary Conditions.

D. PAYMENTS

Payments will be made by the City to the Contractor for said work performed at the times and in the manner provided in the Specifications and at the prices stated in the Contractor's proposal.

E. ASSIGNMENT

By submitting a bid to the City of Lemoore, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C., Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid.

F. ATTORNEY'S FEES

If either of the parties to this agreement brings any legal action or seeks arbitration regarding any provision of this agreement, the prevailing party in the litigation or arbitration shall be entitled to recover reasonable attorney's fees from the other party, in addition to any other relief that may be granted. This provision applies to the entire agreement.

This agreement is made and executed in duplicate and either copy shall, for all purposes, be deemed an original.

IN WITNESS WHEREOF, The City of Lemoore has caused these presents to be executed by its officers thereunto duly authorized, and the Contractor has subscribed same.

Dated: _____, 2014

Contractor

By: _____

(Seal if Corporation)

CITY OF LEMOORE

Dated: _____, 2014

By: _____

City Manager

Attest: _____

City Clerk

CORPORATE CERTIFICATE

I, _____, certify that I am the

Secretary of the Corporation named as CONTRACTOR in
the forgoing contract; that _____, who signed said contract on
behalf of CONTRACTOR was then _____ of said corporation, and that said
contract was duly signed for and in behalf of said corporation by authority of its governing body and
is within the scope of its corporate powers.

Date

Secretary

(CORPORATE SEAL)

PERFORMANCE BOND (100% OF CONTRACT PRICE)

KNOWN ALL MEN BY THESE PRESENTS, that _____

_____, as Principal, and

_____, as Surety are hereby held and firmly bound unto the City of Lemoore as Owner in the penal sum of _____, for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

WHEREAS, the City Council of the City of Lemoore, at its regular meeting of _____ has awarded to Principal a contract for the 2014 RECLAMITE SEAL PROJECT in the City of Lemoore for the City of Lemoore, and,

WHEREAS, said Principal is required under the terms of said contact to provide a bond for the faithful performance of said contract.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above-bonded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and will truly keep and perform the covenants, conditions and agreements in said contract and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time of the contract and during a one-year warranty period and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Obligee, its officers, and agents, as therein stipulated, then this obligation shall become null and void; otherwise, it shall remain in full force and virtue.

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

PERFORMANCE BOND, PAGE TWO

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by corporate officers, to three (3) identical counterparts, each of which shall for all purposes be deemed an original thereof, the day and year first set forth below.

Executed on _____, 2014

Principal

(Seal if Corporation)

By: _____

Title: _____

(Attach Acknowledgement of Authorized Representative of Principal)

Any claims under this bond may be addressed to:

(name and address of Surety)

(name and address of Surety's agent for services and process in California, if different from above)

(telephone number of Surety's agent in California, if different from above)

(Attach Acknowledgement)

Surety

Attorney-in-Fact

NOTICE: No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service and process in California. Certified copy of Power of Attorney must be attached.

**LABOR AND MATERIALS BOND
(100% OF CONTRACT PRICE)**

KNOWN ALL MEN BY THESE PRESENTS, that _____

_____, as Principal, and

_____, as Surety are hereby held and firmly bound unto the City of Lemoore as Owner in the penal sum of _____

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

WHEREAS, the City Council of the City of Lemoore, at its regular meeting of _____ has awarded to Principal a contract for the **2014 RECLAMITE SEAL PROJECT** for the City of Lemoore, and,

WHEREAS, said Principal is required under the terms of said contact to provide a bond for the faithful performance of said contract.

NOW THEREFORE, the condition of this obligation is such, that if the above-bonded Principal and all subcontractors to whom any portion of the work provided for in said contract is sublet, his or its heirs, executors, administrators, successors, or assigns, shall promptly make payment for all labor performed and services rendered and materials furnished in the performance of the work provided for in said contract, then the above obligation shall be null and void; otherwise to remain in full force and virtue. PROVIDED, however, that this bond is subject to the following conditions and limitations:

- a. All persons who have performed labor or rendered services or furnished materials as aforesaid shall have a direct right of action against the Principal and Surety on this bond, which right of action shall be asserted in proceedings instituted in the State in which labor was performed or services rendered or materials furnished (or where labor has been performed or services rendered or materials furnished in more than one state, then in any such state). Insofar as permitted by the laws of such state, such right of action shall be asserted in a proceeding instituted in the name of the Obligee to the use and benefit of the person instituting such action and of all other persons having claims hereunder, and any other person having a claim hereunder shall have the right to be made a part of such proceedings (but not later than six months and ninety days after the complete performance of said contract and final settlement thereof) and to have such claim adjudicated in said action and judgement rendered thereon.
- b. The Surety shall not be liable hereunder for any damages recoverable under any worker's compensation or employer's liability statute.
- c. In no event shall the Surety be liable for a greater sum than the penalty of this bond, or subject to any suit, action, or proceeding thereof, and the alteration or addition to the terms of the contract, or to the work to be performed thereunder or the Specifications accompanying the same shall not in any way affect its obligations of this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the contract, or the work or the Specifications.

LABOR AND MATERIALS BOND, PAGE TWO

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by corporate officers, to three (3) identical counterparts, each of which shall for all purposes be deemed an original thereof, the day and year first set forth below.

Executed on _____, 2014

Principal

(Seal if Corporation)

By: _____

Title: _____

(Attach Acknowledgement of Authorized Representative of Principal)

Any claims under this bond may be addressed to:

(name and address of Surety)

(name and address of Surety's agent for services and process in California, if different from above)

(telephone number of Surety's agent in California, if different from above)

(Attach Acknowledgement)

Surety

Attorney-in-Fact

NOTICE: No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service and process in California. Certified copy of Power of Attorney must be attached.

CERTIFICATE OF INSURANCE
TO
CITY OF LEMOORE (“the City”)
Lemoore, California

Only this Certificate
of Insurance Form
will be Accepted

This certifies to the City that the following described policies have been issued to the insured named below and are in force at this time.

Insured _____

Address _____

Description of operations/locations/products insured (show contract name and/or number, if any) _____

POLICIES AND INSURERS	LIMITS	POLICY NUMBER	EXPIRATION DATE
°WORKERS COMPENSATION <hr/> (Insurer) Best's Rating _____	Employers Liability \$ _____		
°GENERAL LIABILITY Check Policy Type: <input type="checkbox"/> Comprehensive Or <input type="checkbox"/> Commercial Check Coverage Type: <input type="checkbox"/> "Claims-Made" -or- <input type="checkbox"/> "Occurrence" <hr/> (Insurer) Best's Rating _____	Comprehensive General Liability Each Occurrence \$ _____ Aggregate \$ _____ <hr/> Commercial General Liability Each Occurrence \$ _____ General Aggregate, either: per project/location \$ _____ -or- twice occurrence limit \$ _____		
°BUSINESS AUTO POLICY Liability Coverage Symbol _____ <hr/> (Insurer) Best's Rating _____	Each Person \$ _____ Each Accident \$ _____ Each Accident, Property Damage \$ _____ -or- Combine Single Limit \$ _____		
°UMBRELLA LIABILITY Check Coverage Type: <input type="checkbox"/> "Claims-Made" -or- <input type="checkbox"/> "Occurrence" <hr/> (Insurer) Best's Rating _____	Occurrence/Aggregate \$ _____ Self-Insured Retention \$ _____		

NOTE: If commercial general liability insurance is used or if aggregate limits are endorsed to the comprehensive general liability policy form, the general aggregate must apply per location./project or the aggregate limit must be at least twice the occurrence limit.

THE FOLLOWING ARE IN EFFECT:	Yes	NO
The City, the Engineer, their officials, officers, employees, and volunteers are named on all liability policies described above as Insured as respect: (a) activities performed for the City by or on behalf of the named Insured, (b) products and completed operations of the Named Insured, and (c) any premises owned, leased, or used by the Named Insured.		
Products and Completed Operations		
The undersigned will mail to the City 30 days' written notice of cancellation or reduction of coverage of limits.		
Cross Liability Clause (or equivalent wording)		
Personal Injury, Perils A,B and C		
Broad Form Property Damage		
X, C, U Hazards Included		
Contractual Liability Coverage applying to this Contract		
Liquor Liability		
Coverage afforded the City, the Engineer, their officials, officers employees, and volunteers as Insured applies primary and not excess or contributing to any insurance issued in the name of the City.		
Waiver of Subrogation from Worker's Compensation insurer.		

This certificate is issued as a matter of information. This certificate is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, condition, of any contract or other document with respect to which this certificate of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of such policies.

<i>Insurance Agency or Brokerage</i>	<i>Insurance Company</i>
<i>Address</i>	<i>Home Office</i>
<i>City State Zip</i>	<i>Authorized Signature Date</i>
<i>Name of Person to be contacted</i>	<p>Note: Authorized signature may be agent's if agent has placed insurance through an agency agreement with the insurer. If insurance is brokered, authorized signature must be that of official of insurer.</p>
<i>Telephone</i>	

WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY SPECIAL ENDORSEMENT		SUBMIT IN TRIPLICATE	
FOR <u>CITY OF LEMOORE</u> (the "Entity")		ENDORSEMENT NO.	ISSUE DATE (MMDDYY)
PRODUCER Telephone _____	POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____		
NAMED INSURED	OTHER PROVISIONS		
CLAIMS: Underwriter's representative for claims pursuant to this _____ insurance. Name: _____ Address: _____ Telephone: (____) _____	EMPLOYER'S LIABILITY LIMITS \$ _____ (Each Accident) \$ _____ (Disease - Policy Limit) \$ _____ (Disease - Each Employee)		
In consideration of the premium charges and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:			
<ol style="list-style-type: none"> 1. CANCELLATION NOTICE. This insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the Entity. 2. WAIVER OF SUBROGATION. The Insurance Company agrees to waive all rights of subrogation against the Entity, its officers, officials, employees and volunteers for losses paid under the terms of this policy which arise from the work performed by the Named Insured for the Entity. <p>Except as stated above nothing herein shall be held to waive, alter or extend any of the limits conditions, agreements or exclusions of the policy to which this endorsement is attached.</p>			
ENDORSEMENT HOLDER			
ENTITY CITY OF LEMOORE 119 FOX STREET LEMOORE, CA 93245 ATTENTION: CITY MANAGER	AUTHORIZED <input type="checkbox"/> Broker/Agent <input type="checkbox"/> Underwriter <input type="checkbox"/> _____ REPRESENTATIVE I, _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereby do so bind this company to this endorsement. Signature _____ <small>(original signature required)</small> Telephone (____) _____ Date Signed _____		

GENERAL LIABILITY SPECIAL ENDORSEMENT		SUBMIT IN TRIPLICATE	
FOR <u>CITY OF LEMOORE</u> (the "Entity")		ENDORSEMENT NO.	ISSUE DATE (MMDDYY)
PRODUCER	POLICY INFORMATION: Insurance Company: Policy No.: Policy Permit: (from) _____ (to) _____ <input type="checkbox"/> Deductible <input type="checkbox"/> Self-Insured Retention (check which) of \$ _____		
NAMED INSURED	APPLICABILITY. This insurance pertains to the operations and/or tenancy of the named insured under all written agreements and permits in force with the Entity unless checked here <input type="checkbox"/> in which case only the following specific agreements and permits with the Entity are covered: ENTITY AGREEMENTS/PERMITS		
TYPE OF INSURANCE			
LIMIT OF LIABILITY	OTHER PROVISIONS		
\$ _____ per accident, for bodily injury and property damage. LOSS ADJUSTMENT EXPENSE <input type="checkbox"/> INCLUDED IN LIMITS <input type="checkbox"/> IN ADDITION TO LIMITS	CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: (_____) _____		
In consideration of the premium charges and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:			
<ol style="list-style-type: none"> 1. INSURED. The Entity, its elected or appointed officers, agents, volunteers and employees are included as insureds. 2. CONTRIBUTION NOT REQUIRED. As respects work performed by the Named Insured for or on behalf of the Entity; the insurance afforded by this policy (a) be primary insurance as respects the Entity, its elected or appointed officers, officials, employees or volunteers; or (b) stand in an unbroken chain of coverage excess of the Named Insurer's scheduled underlying primary coverage. Any other insurance maintained by the Entity, its elected or appointed officers, officials, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. CANCELLATION NOTICE. With respect to the interests of the Entity, this insurance shall not be canceled, except after thirty (30) days prior written notice by receipted delivery has been given to the Entity. 4. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: <ol style="list-style-type: none"> (1) Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG 0001 (Ed. 11/88); or (2) If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1). 			
Except as stated above nothing herein shall be held to waive, alter or extend any of the limits conditions, agreements or exclusions of the policy to which this endorsement is attached.			
ENDORSEMENT HOLDER			
ENTITY CITY OF LEMOORE 119 FOX STREET LEMOORE, CA 93245 ATTENTION: CITY MANAGER	AUTHORIZED <input type="checkbox"/> Broker/Agent <input type="checkbox"/> Underwriter <input type="checkbox"/> _____ REPRESENTATIVE I, _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereby do so bind this company to this endorsement. <i>Signature</i> _____ <small>(original signature required)</small> Telephone (_____) _____ Date Signed _____		

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT		SUBMIT IN TRIPLICATE	
FOR <u>CITY OF LEMOORE</u> (the "Entity")		ENDORSEMENT NO.	ISSUE DATE (MMDDYY)
PRODUCER	POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) _____ (to) _____ <input type="checkbox"/> Deductible <input type="checkbox"/> Self-Insured Retention (check which) of \$ _____		
NAMED INSURED	APPLICABILITY , This insurance pertains to the operations and/or tenancy of the named insured under all written agreements and permits in force with the Entity unless checked here <input type="checkbox"/> in which case only the following specific agreements and permits with the Entity are covered: ENTITY AGREEMENTS/PERMITS		
TYPE OF INSURANCE	OTHER PROVISIONS		
<input type="checkbox"/> Commercial Auto Policy <input type="checkbox"/> Business Auto Policy <input type="checkbox"/> Other _____			
LIMIT OF LIABILITY	CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: (_____) _____		
\$ _____ per accident, for bodily injury and property damage. LOSS ADJUSTMENT EXPENSE <input type="checkbox"/> INCLUDED IN LIMITS <input type="checkbox"/> IN ADDITION TO LIMITS			
<p>In consideration of the premium charges and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:</p> <ol style="list-style-type: none"> 1. INSURED. The Entity, its elected or appointed officers, agents, volunteers and employees are included as insureds with regard to damages and defense of suits arising from the ownership, operations, maintenance, use, loading or unloading of any auto owned, leased, hired, or borrowed by the Named Insured, for which the Named Insured is responsible. 2. CONTRIBUTION NOT REQUIRED. As respects work performed by the Named Insured for or on behalf of the Entity; the insurance afforded by this policy shall: a) be primary insurance as respects the Entity, its elected or appointed officers, officials, employees or volunteers; or (b) stand in an unbroken chain of coverage excess of the Named Insurer's scheduled underlying primary coverage. Any other insurance maintained by the Entity, its elected or appointed officers, officials, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. CANCELLATION NOTICE. With respect to the interests of the Entity, this insurance shall not be canceled, except after thirty (30) days prior written notice by receipted delivery has been given to the Entity. 4. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: <ol style="list-style-type: none"> (1) Insurance Services Office form number CA 0001 (Ed. 6/92), Code 1 ("any auto"); or (2) If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1). <p>Except as stated above nothing herein shall be held to waive, alter or extend any of the limits conditions, agreements or exclusions of the policy to which this endorsement is attached.</p>			
ENDORSEMENT HOLDER			
ENTITY CITY OF LEMOORE 119 FOX STREET LEMOORE, CA 93245 ATTENTION: CITY MANAGER	AUTHORIZED <input type="checkbox"/> Broker/Agent <input type="checkbox"/> Underwriter <input type="checkbox"/> _____ REPRESENTATIVE I, _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereby do so bind this company to this endorsement. Signature _____ (original signature required) Telephone () _____ Date Signed _____		

**CERTIFICATION OF COMPLIANCE WITH
STATE LABOR CODE SECTION 3700**

In compliance with State Labor Code Section 1861:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Dated: _____, 2014 _____
Contractor

By: _____

(Seal if Corporation)

NOTICE OF AWARD

TO: _____

PROJECT Description:
CITY OF LEMOORE 2014 RECLAMITE SEAL PROJECT

The OWNER has considered the BID submitted by you for the above described WORK in response to its Advertisement for BIDS dated _____. You are hereby notified that your BID has been accepted for items in the amount of _____.

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

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

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

Dated this _____ day of _____.

Owner City of Lemoore _____

By _____ Title _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by:

(Contractor)

this, the _____ day of _____ 2014.

By _____ Title _____

NOTICE TO PROCEED

TO: _____

DATE: _____
PROJECT: 2014 RECLAMITE SEAL PROJECT

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

CITY OF LEMOORE
Owner

By _____
Harry A. Tow, PE

Title Project Engineer

**2014 RECLAMITE SEAL PROJECT
ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by

(Contractor)

this, the _____ day of _____ 2014

By _____
(Signature)

Title _____
(Please Type)

Employer Tax Identification Number:

Telephone Number () _____

Fax Number () _____

GENERAL CONDITIONS

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GENERAL CONDITIONS

ARTICLE 1 – DEFINITIONS

Wherever used in these General Conditions or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

Addenda

Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the bidding documents or the Contract Documents.

Agreement

The written agreement between OWNER and CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the agreement and made a part thereof as provided therein.

Application for Payment

The form accepted by ENGINEER which is to be used by CONTRACTOR in requesting progress or final payment and which is to include such supporting documentation as is required by the Contract Documents.

Bid

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

Bonds

Bid, performance, and payment bonds and other instruments of security.

Change Order

A document recommended by ENGINEER, which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion, or revision in the Work, or an adjustment in the Contract price, or the Contract Time, issued on or after the Effective Date of the Agreement.

Contract Documents

The Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post-Bid documentation), the Bonds, these General Conditions, the Supplementary Conditions, the Specifications, the Drawings as the same are more specifically identified in the Agreement, together with all amendments, modifications, and supplements issued pursuant to paragraphs 3.4 and 3.5 on or after the Effective Date of the Agreement.

Contract Price

The monies payable by OWNER to CONTRACTOR under the Contract Documents as stated in the Agreement (subject to the provisions of paragraph 11.9.1 in the case of Unit Price Work).

Contract Time

The number of days (computed as provided in Paragraph 17.2) or the date stated in the Agreement for the completion of the Work.

CONTRACTOR

The person, firm, or corporation with whom OWNER has entered into the Agreement.

Day

A calendar day of twenty-four hours measured from midnight to the next midnight.

Defective

An adjective which when modifying the work Work refers to Work that is unsatisfactory, faulty, or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion in accordance with paragraph 14.8 or 14.10.

Drawings

The drawings (plans) which show the character and scope of the Work to be performed and which have been prepared or approved by ENGINEER and are referred to in the Contract Documents.

Effective Date of the Agreement

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

ENGINEER

The person, firm, or corporation named as such in the Agreement; Quad Knopf, Inc.

Field Order

A written order issued by ENGINEER which orders minor changes in the Work in accordance with paragraph 9.5 but which does not involve a change in the Contract Price or the Contract Time.

General Requirements

The special provisions of the Specifications.

Laws and Regulations; Laws or Regulations

Laws, rules, regulations, ordinances, codes, and/or orders.

Notice of Award

The written notice by OWNER to the apparent successful Bidder stating that upon compliance by the apparent successful Bidder with the conditions precedent enumerated therein, within the time specified, OWNER will sign and deliver the Agreement.

Notice to Proceed

A written notice given by OWNER to CONTRACTOR (with a copy to ENGINEER) fixing the date on which the Contract Time will commence to run and on which CONTRACTOR shall start to perform CONTRACTOR's obligation under the Contract Documents.

OWNER

The public body or authority, corporation, association, firm, or person with whom CONTRACTOR shall start to perform CONTRACTOR's obligation under the Contract Documents; the City of Lemoore.

Whenever reference is made to these General Conditions for any paragraphs from 2.1 through 17.4 said reference is to paragraphs of the General Conditions.

Partial Utilization

Placing a portion of the work in service for the purpose for which it is intended (or a related purpose) before reaching Substantial Completion of all the Work.

Project

The total construction of which the work to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.

Resident Project Representative

The authorized representative of ENGINEER or OWNER who is assigned to the site or any part thereof.

Shop Drawings

All drawings, diagrams, illustrations, schedules, and other data which are specifically prepared by or for CONTRACTOR to illustrate some portion of the Work, and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams, and other information prepared by a Supplier and submitted by CONTRACTOR to illustrate material or equipment for some portion of the Work.

Specifications

Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

Subcontractor

An individual, firm, or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.

Substantial Completion

The Work (or specified part thereof) has progressed to the point where, in the opinion of the ENGINEER ~~as evidenced by ENGINEER's definitive Notice of Substantial Completion~~, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended; ~~or if there be no such Notice issued, when final payment is due in accordance with paragraph 14.13.~~ The terms "substantially complete" and "substantially completed" as applied to any Work refer to Substantial Completion thereof.

Supplementary Conditions

The part of the Contract Documents which amends or supplements these General Conditions.

Supplier

A manufacturer, fabricator, supplier, distributor, materialman, or vendor.

Underground Facilities

All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems, or water.

Unit Price Work

Work to be paid for on the basis of unit prices.

Work

The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, furnishing labor, and furnishing and incorporating materials and equipment into the construction, all as required by the Contract Documents.

Work Directive Change

A written directive to CONTRACTOR, issued on or after the Effective Date of the Agreement and signed by OWNER and recommended by ENGINEER, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed as provided in Paragraphs 4.2 and 4.3 or to emergencies under Paragraph 6.22. A Work directive change may not change the Contract Price or the Contract Time, but is evidence that the parties expect that the change directed or documented by a Work Directive Change 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 the Contract Time, as provided in Paragraph 10.2.

Written Amendment

A written amendment of the Contract Documents signed by OWNER and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the nonengineering or nontechnical rather than strictly Work-related aspects of the Contract Documents.

ARTICLE 2 – PRELIMINARY MATTERS

Delivery of Bonds:

- 2.1 When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as CONTRACTOR may be required to furnish in accordance with Paragraph 5.1.

Copies of Documents:

- 2.2 OWNER shall furnish to CONTRACTOR up to six copies (unless otherwise specified in the Supplementary Conditions) of the Contract Documents as are reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction.

Commencement of Contract Time; Notice to Proceed:

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

Starting the Project:

- 2.4 CONTRACTOR shall start to perform the Work on the date when the Contract Time commences to run, but no Work shall be done at the site prior to the date on which the Contract Time commences to run.

Before Starting Construction:

- 2.5 Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error, or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any work affected thereby; however, CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any conflict, error, or discrepancy in the Contract Documents, unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

- 2.6 Within ten days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), CONTRACTOR shall submit to ENGINEER for review:

2.6.1 An estimated progress schedule indicating the starting and completion dates of the various stages of the Work.

~~2.6.2 A preliminary schedule of Shop Drawing submissions; and~~

~~2.6.3 A preliminary schedule of values for all of the Work, which shall include quantities and prices of items aggregating the Contract Price and will subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices shall include an appropriate amount of overhead and profit applicable to each item of Work which shall be confirmed in writing by the CONTRACTOR at the time of submission.~~

2.7 Before any Work at the site is started, CONTRACTOR shall deliver to OWNER, with a copy to ENGINEER, certificates (and other evidence of insurance requested by OWNER) which CONTRACTOR is required to purchase and maintain in accordance with Paragraphs 5.3 and 5.4, and OWNER shall deliver to CONTRACTOR certificates (and other evidence of insurance requested by CONTRACTOR) which OWNER is required to purchase and maintain in accordance with Paragraphs 5.6 and 5.7.

Pre-construction Conference:

2.8 Within ten days after the Effective Date of the Agreement, but before CONTRACTOR starts the Work at the site, a conference to be attended by the CONTRACTOR, ENGINEER, and others as appropriate will be held to discuss the schedules referred to in Paragraph 2.6, to discuss procedures for handling Shop Drawings and other submittals and for processing Applications for payment, and to establish a working understanding among the parties as to the Work.

Finalizing Schedules:

2.9 At least ten days before submission of the first Application for payment a conference to be attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to finalize the schedule submitted in accordance with paragraph 2.6. The finalized progress schedule must be acceptable to the ENGINEER as providing an orderly progression of the Work to a completion within the Contract Time, but such acceptance will neither impose on ENGINEER responsibility for the progress or scheduling of the Work nor relieve CONTRACTOR from full responsibility therefor. ~~The finalized schedule of Shop Drawings must be acceptable to ENGINEER as providing a workable arrangement for processing the submissions. The finalized schedule of values must be acceptable to ENGINEER as to form and substance.~~

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, AND REUSE

Intent:

3.1 The Contract Documents comprise the entire Agreement between OWNER and CONTRACTOR, concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of the place of the Project.

3.2 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 Work, materials, or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials, or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals, or codes of any technical society, organization, or association, or to the laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, or Laws or Regulations in effect at the time of opening of bids (or, on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual, or code (whether or not specifically incorporated by reference in

the Contract Documents) shall be effective to change the duties and responsibilities of OWNER, CONTRACTOR, or ENGINEER, or any of their consultants, agents, or employees from those set forth in the Contract Documents, nor shall it be effective to assign to ENGINEER or any of ENGINEER's consultants, agents, or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.15 or 9.16. Clarifications and interpretations of the Contract Documents shall be issued by ENGINEER as provided in paragraph 9.4.

- 3.3 If, during the performance of the Work, CONTRACTOR finds a conflict, error, or discrepancy in the Contract Documents, CONTRACTOR shall so report to ENGINEER in writing at once, and before proceeding with the Work affected thereby, shall obtain a written interpretation or clarification from ENGINEER; however, CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any conflict, error, or discrepancy in the Contract Documents unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

Amending and Supplementing Contract Documents

- 3.4 The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways:

- 3.4.1 A formal Written Amendment;
- 3.4.2 A Change Order (pursuant to paragraph 10.4); or
- 3.4.3 A Work Directive Change (pursuant to paragraph 10.1).

As indicated in Paragraphs 11.2 and 12.1, Contract Price and Contract Time may only be changed by a Change Order or a Written Amendment.

- 3.5 In addition, the requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, in one or more of the following ways:

- 3.5.1 A Field Order (pursuant to Paragraph 9.5);
- 3.5.2 ENGINEER's approval of a Shop Drawing or sample (pursuant to Paragraphs 6.26 and 6.27); or
- 3.5.3 ENGINEER's written interpretation or clarification (pursuant to Paragraph 9.4).

Reuse of Document:

- 3.6 Neither CONTRACTOR nor any Subcontractor or supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with OWNER shall have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER; and they shall not reuse any of them on extensions of the Project or any other project without written consent of OWNER or ENGINEER and specific written verification or adaptation by ENGINEER.

ARTICLE 4 – AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS

Availability of Lands:

- 4.1 OWNER shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, right-of-way and easements for access thereto, and such other lands which are

designated for the use of CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by OWNER, unless otherwise provided in the Contract Documents. If CONTRACTOR believes that any delay in OWNER's furnishing these lands, right-of-way, or easements entitles CONTRACTOR to an extension of the Contract Time, CONTRACTOR may make a claim therefor as provided in Article 12. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

Physical Conditions – Investigations and Reports:

- 4.2.1 Explorations and Reports: Reference is made to the Supplementary Conditions for identification of ~~those~~ any reports of explorations and tests of subsurface conditions at the site that have been utilized by ENGINEER in the preparation of the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such reports, but not upon nontechnical data, interpretations, or opinions contained therein, or the completeness thereof, for CONTRACTOR's purposes. Except as indicated in the immediately preceding sentence and in Paragraph 4.2.6, CONTRACTOR shall have full responsibility with respect to subsurface conditions at the site.
- 4.2.2 Existing Structures: Reference is made to the Supplementary Conditions for identification of ~~those~~ any drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities referred to in Paragraph 4.3) which are at or contiguous to the site that have been utilized by ENGINEER in the preparation of the Contract Documents. CONTRACTOR may rely on the accuracy of the technical data contained in such drawings, but not the completeness thereof, for CONTRACTOR's purposes. Except as indicated in the immediately preceding sentence and in Paragraph 4.2.6, CONTRACTOR shall have full responsibility with respect to physical conditions in or relating to such structures.
- 4.2.3 Report of Differing Conditions: If CONTRACTOR believes that:
 - 4.2.3.1 Any technical data on which CONTRACTOR is entitled to rely as provided in Paragraphs 4.2.1 and 4.2.2 is inaccurate, or
 - 4.2.3.2 Any physical condition uncovered or revealed at the site differs materially from that indicated, reflected, or referred to in the Contract Documents,

CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work in connection therewith (except in an emergency as permitted by Paragraph 6.22), notify OWNER and ENGINEER in writing about the inaccuracy or difference.
- 4.2.4 ENGINEER's Review: ENGINEER will promptly review the pertinent conditions, determine the necessity of obtaining additional exploration or tests with respect thereto and advise OWNER in writing (with a copy to CONTRACTOR) of ENGINEER's findings and conclusions.
- 4.2.5 Possible Document Change: If ENGINEER concludes that there is a material error in the Contract Documents or that because of the newly discovered conditions a change in the Contract Documents is required, a Work Directive Change or a Change Order will be issued as provided in Article 10 to reflect and document the consequences of the inaccuracy or difference.
- 4.2.6 Possible Price and Time Adjustments: In each such case, an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, or any combination thereof, will be allowable to the extent that they are attributable to any such inaccuracy or

difference. If OWNER and CONTRACTOR are unable to agree as to the amount or length thereof, a claim may be made therefor as provided in Articles 11 and 12.

Physical Conditions – Underground Facilities:

- 4.3.1 Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based on information and data furnished to OWNER or ENGINEER by the owners of such Underground Facilities or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
- 4.3.1.1 OWNER and ENGINEER shall not be responsible for the accuracy or completeness of any such information or data; and
- 4.3.1.2 CONTRACTOR shall have full responsibility for reviewing and checking all such information and data, for locating all Underground Facilities shown or indicated in the Contract Documents, for coordination of the Work with the owners of such Underground Facilities during construction, for the safety and protection thereof as provided in Paragraph 6.20, and repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price.
- 4.3.2 Not Shown or Indicated: If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents and which the CONTRACTOR could not reasonably have been expected to be aware of, CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted by Paragraph 6.22), identify the owner of such Underground Facility and give written notice thereof to that owner and to OWNER and ENGINEER. ENGINEER will promptly review the Underground Facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and the Contract Documents will be amended or supplemented to the extent necessary. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility as provided in Paragraph 6.20. CONTRACTOR shall be allowed an increase in the Contract Price or extension in the Contract Time, or both, to the extent that they are attributable to the existence of any Underground Facility which was not shown in the contract Documents and which the CONTRACTOR could not reasonably have been expected to be aware of. If the parties are unable to agree as to the amount or length thereof, CONTRACTOR may make a claim therefor as provided in Articles 11 and 12.

Reference Points:

- 4.4 OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER's judgement are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work (unless otherwise specified in the General Requirements), shall to the extent feasible protect and preserve the established reference points, and shall make no changes or relocations without the prior written approval of ~~OWNER~~ ENGINEER. CONTRACTOR shall report to ENGINEER whenever any reference point is lost or destroyed or requires relocation because of ~~necessary~~ specified changes in grades or locations, ~~and shall be responsible for replacement or relocation of such reference points by professionally qualified personnel.~~
- 4.5 ~~Prior to CONTRACTOR beginning work ENGINEER will establish reset references for any existing reference point, which is not in a box or pipe container, and will relocate and reset such existing points after the completion of the work on the contract. CONTRACTOR shall reset or~~

~~raise the enclosures for any reference points which are so protected. CONTRACTOR shall pay ENGINEER for any costs of resetting such structurally protected existing reference points if they are disturbed by Contractor's work.~~

ARTICLE 5 – BONDS AND INSURANCE

Performance and Other Bonds:

- 5.1 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 CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as otherwise provided by Law or Regulation or the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Supplementary Conditions. All Bonds shall be in the forms prescribed by Law or Regulation or the Contract Documents and be executed by such Sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of the authority to act.
- 5.2 If the surety on any Bond furnished by CONTRACTOR is declared a bankrupt or becomes insolvent or its right to do business is terminated in any state where part of the Project is located or it ceases to meet the requirements of paragraph 5.1, CONTRACTOR shall, within five days thereafter, substitute another Bond and surety, both of which must be acceptable to OWNER.

Contractor's Liability Insurance:

- 5.3 CONTRACTOR shall purchase and maintain such comprehensive general liability and other insurance as is appropriate for the Work being performed and furnished and as will provide protection from claims set forth below which may arise out of or result from CONTRACTOR's performance and furnishing of the Work and CONTRACTOR's other obligations under the Contract Documents, whether it is to be performed or furnished by CONTRACTOR, by any Subcontractor, by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable:
- 5.3.1 Claims under workers' or workmen's compensation, disability benefits, and other similar employee benefit acts;
 - 5.3.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;
 - 5.3.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;
 - 5.3.4 Claims for damages insured by 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;
 - 5.3.5 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;
 - 5.3.6 Claims arising out of operation of Laws or Regulations for damages because of bodily injury or death of any person or for damage to property; and,
 - 5.3.7 Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.

The insurance required by this paragraph 5.3 shall include the specific coverages and be written for not less than the limits of liability and coverages provided in the Supplementary Conditions, or required by law, whichever is greater. The comprehensive general liability insurance shall include completed operations insurance. All of the policies of insurance so required to be purchased and maintained (or the certificates or other evidence thereof) shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least thirty days' prior written notice has been given to OWNER and ENGINEER by certified mail. All such insurance shall remain in effect until final payment and at all times thereafter when CONTRACTOR may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.12. In addition, CONTRACTOR shall maintain such completed operations insurance for at least two years after final payment and furnish OWNER with evidence of continuation of such insurance at final payment and one year thereafter.

Contractual Liability Insurance:

- 5.4 The comprehensive general liability insurance required by Paragraph 5.3 shall include contractual liability insurance applicable to CONTRACTOR's obligations under paragraphs 6.30 and 6.31.

Owner's Liability Insurance:

- 5.5 OWNER shall be responsible for purchasing and maintaining OWNER's own liability insurance and, at OWNER's option, may purchase and maintain such insurance as will protect OWNER against claims which may arise from operations under the Contract Documents.

Property Insurance:

- ~~5.6 Unless otherwise provided in the Supplementary Conditions, OWNER shall purchase and maintain property insurance upon the Work at the site to the full insurable value thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall include the interests of OWNER, CONTRACTOR, subcontractors, ENGINEER, and ENGINEER's consultants in the Work, all of whom shall be listed as insureds or additional insured parties, shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse, and water damage, and such other perils as may be provided in the Supplementary Conditions, and shall include damages, losses, and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including fees and charges of engineers, architects, attorneys, and other professionals). If not covered under the "all risk" insurance or otherwise provided in the Supplementary Conditions, CONTRACTOR shall purchase and maintain similar property insurance on portions of the Work stored on and off the site or in transit when such portions of the Work are to be included in an Application for Payment.~~
- 5.7 OWNER shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, and ENGINEER's consultants in the Work, all of whom shall be listed as insureds or additional insured parties.
- 5.8 All of the policies of insurance (or the certificates or other evidence thereof) required to be purchased and maintained by OWNER in accordance with Paragraphs 5.6 and 5.7 shall contain a provision or endorsement that the coverage afforded will not be canceled or materially changed, or renewal refused until at least thirty days' prior written notice has been given to CONTRACTOR by certified mail, and shall contain waiver provisions in accordance with Paragraph 5.11.2.

- 5.9 OWNER shall not be responsible for purchasing and maintaining any property insurance to protect the interests of CONTRACTOR, Subcontractors, or others in the Work to the extent of any deductible amounts that are provided in the Supplementary Conditions. The risk of loss within the deductible amounts will be borne by CONTRACTOR, Subcontractors, or others suffering any such loss and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.
- 5.10 If CONTRACTOR requests in writing that other special insurance be included in the property insurance policy, OWNER shall, if possible, include such insurance, and the cost thereof shall be charged to CONTRACTOR by appropriate Change Order or Written Amendment. Prior to commencement of the Work at the site, OWNER shall in writing advise CONTRACTOR whether or not such other insurance has been procured by OWNER.

Waiver of Rights:

- 5.11.1 OWNER and CONTRACTOR waive all rights against each other for all losses and damages caused by any of the perils covered by the policies of insurance provided in response to Paragraphs 5.6 and 5.7, and any other property insurance applicable to the Work, and also waive all such rights against the Subcontractors, ENGINEER, ENGINEER's consultants, and all other parties named as insureds in such policies for losses and damages so caused. As required by paragraph 6.11, each subcontract between CONTRACTOR and a Subcontractor shall contain similar waiver provisions by the Subcontractor in favor of OWNER, CONTRACTOR, ENGINEER, ENGINEER's consultants, and all other parties named as insureds. None of the above waivers shall extend to the rights that any of the insured parties may have to the proceeds of insurance held by OWNER as trustee or otherwise payable under any policy so issued.
- 5.11.2 OWNER and CONTRACTOR intend that any policies provided in response to Paragraphs 5.6 and 5.7 shall protect all of the parties insured and provide primary coverage for all losses and damages caused by the perils covered thereby. Accordingly, all such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any of the parties named as insureds or additional insureds, and if the insurers require separate waiver forms to be signed by the ENGINEER or ENGINEER's consultants, OWNER will obtain the same, and if such waiver forms are required of any Subcontractor, CONTRACTOR will obtain the same.

Receipt and Application of Proceeds:

- 5.12 Any insured loss under the policies of insurance required by Paragraphs 5.6 and 5.7 will be adjusted with OWNER and made payable to OWNER as trustee for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.13. 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 monies so received applied on account thereof and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.
- 5.13 OWNER as trustee shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within fifteen days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as trustee shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If required in writing by any party in interest, OWNER as trustee shall, upon the occurrence of an insured loss, give bond for the proper performance of his duties.

Acceptance of Insurance:

- 5.14 If OWNER has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by CONTRACTOR in accordance with Paragraphs 5.3 and 5.4 on the basis of its not complying with the Contract Documents,, OWNER shall notify CONTRACTOR in writing thereof within ten days of the date of delivery of such certificates to OWNER in accordance with Paragraph 2.7. if CONTRACTOR has any objection to the coverage afforded by or other provisions of the policies of insurance required to be purchased and maintained by OWNER in accordance with Paragraphs 5.6 and 5.7 on the basis of their not complying with the Contract Documents, CONTRACTOR shall notify OWNER in writing thereof within ten days of the date of delivery of such certificates to CONTRACTOR in accordance with paragraph 2.7. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided by each as the other may reasonably request. Failure by OWNER or CONTRACTOR to give any such notice of objection within the time provided shall constitute acceptance of such insurance purchased by the other as complying with the Contract Documents.

Partial Utilization — Property Insurance:

- 5.15 ~~If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, such use or occupancy may be accomplished in accordance with Paragraph 14.10; provided that no such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected the 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 lapse on account of any such partial use or occupancy.~~

ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES
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Supervision and Superintendence:

- 6.1 CONTRACTOR shall supervise 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, but CONTRACTOR shall not be solely responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence, or procedure of construction which is indicated in and required by the Contract Documents. CONTRACTOR shall be responsible to see that the finished Work complies accurately with the Contract Documents.
- 6.2 CONTRACTOR shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to OWNER and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR’s representative at the site and shall have authority to act on behalf of CONTRACTOR all communications given to the superintendent shall be as binding as if given to CONTRACTOR.

Labor, Materials, and Equipment:

- 6.3.1 CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the site. Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of

Work on Saturday, Sunday, or any legal holiday without OWNER's written consent given after prior written notice to ENGINEER.

- 6.3.2 No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons, except as provided in Section 12940 of the Government Code, and every contractor for public works violating this section is subject to all the penalties imposed for a violation of this chapter.
- 6.4 Unless otherwise specified in the General Requirements, CONTRACTOR shall furnish and assume full responsibility for all 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 furnishing, performance, testing, startup, and completion of the Work.
- 6.5 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable Supplier, except as otherwise provided in the Contract Documents; but no provision of any such instruction will be effective to assign to ENGINEER, or any of ENGINEER's consultants, agents, or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.15 or 9.16.

Adjusting Progress Schedule:

- 6.6 CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in Paragraph 2.9) adjustments in the progress schedule to reflect the impact thereon of new developments; these shall conform generally to the progress schedule then in effect and additionally shall comply with any provisions of the General Requirements applicable thereto.

Substitutes or "Or-Equal" Items:

- 6.7.1 Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the naming of the item is intended to establish the type, function, and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other Suppliers may be accepted by ENGINEER if sufficient information is submitted by CONTRACTOR to allow ENGINEER to determine that the material or equipment proposed is equivalent or equal to that named. The procedure for review by ENGINEER will include the following as supplemented in the General Requirements. Requests for review of substitute items of material and equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall make written application to ENGINEER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified, and be suited to the same use as that specified. The application will state that the evaluation and acceptance of the proposed substitute will not prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified shall be identified in the application and available

maintenance, repair, and replacement service shall be indicated. The application shall also contain an itemized estimate of all costs that will result directly or indirectly from the acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be considered by ENGINEER in evaluating the proposed substitute. ENGINEER may require CONTRACTOR to furnish at CONTRACTOR's expense additional data about the proposed substitute.

- 6.7.2 If a specific means, method, technique, sequence, or procedure of construction is indicated in or required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction acceptable to the ENGINEER, if CONTRACTOR submits sufficient information to allow ENGINEER to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by the ENGINEER will be similar to that provided in Paragraph 6.7.1 ~~as applied by ENGINEER and as may be supplemented in the General Requirements.~~
- 6.7.3 ENGINEER will be allowed a reasonable time within which to evaluate each proposed substitute. ENGINEER will be the sole judge of acceptability, and no substitute shall be ordered, installed, or utilized without ENGINEER's prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing. OWNER may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any substitute. ENGINEER will record time required by ENGINEER and ENGINEER's consultants in evaluating substitutions proposed by CONTRACTOR and in making changes to the Contract Documents occasioned thereby. Whether or not ENGINEER accepts a proposed substitute, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's consultants for evaluating each proposed substitute.

Concerning Subcontractors, Suppliers, and Others:

- 6.8.1 CONTRACTOR shall not employ any Subcontractor, Supplier, or other person or organization (including those acceptable to OWNER and ENGINEER as indicated in paragraph 6.8.2), whether initially or as a substitute, against whom OWNER or ENGINEER may have reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor, Supplier or other person or organization to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection.
- 6.8.2 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other persons or organizations (including those who are to furnish the principal items of materials and equipment) to be submitted to OWNER in advance of the specified date prior to the Effective Date of the Agreement for acceptance by the OWNER and ENGINEER, and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER's or ENGINEER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the bidding documents or the Contract Documents) of any such Subcontractor, Supplier, or other person or organization so identified may be revoked on the basis of reasonable objection after due investigation, in which case CONTRACTOR shall submit an acceptable substitute, the Contract Price will be increased by the difference in cost occasioned by such substitution and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER or ENGINEER of any such Subcontractor, Supplier, or other person or organization shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.
- 6.9 CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers, and other persons and organizations performing or furnishing

any of the Work under a direct or indirect contract with CONTRACTOR, just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier, or other person or organization, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any monies due any such Subcontractor, Supplier, or other person or organization, except as may otherwise be required by Laws and Regulations.

- 6.10 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.
- 6.11 All Work performed by CONTRACTOR by a Subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER and contains waiver provisions as required by paragraph 5.11. CONTRACTOR shall pay each Subcontractor a just share of any insurance monies received by CONTRACTOR on account of losses under policies issued pursuant to Paragraphs 5.6 and 5.7.

Patent Fees and Royalties:

- 6.12 CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or ENGINEER its use is subject to patent rights or copyrights calling for payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. CONTRACTOR shall indemnify and hold harmless OWNER and ENGINEER and anyone directly or indirectly employed by either of them from and against all claims, damages, losses, and expenses (including attorneys' fees and court and arbitration costs) arising out of 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, and shall defend all such claims in connection with any alleged infringement of such rights.

Permits:

- 6.13 Unless otherwise provided in the Supplementary Conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or if there are no bids, on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and OWNER shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

Laws and Regulations

- 6.14.1 CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to furnishing all performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither OWNER nor ENGINEER shall be responsible for monitoring CONTRACTOR's compliance with any Laws and Regulations.

- 6.14.2 If CONTRACTOR observes that the Specifications or Drawings are at variance with any Laws or Regulations, CONTRACTOR shall give ENGINEER prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated in paragraph 3.4. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such Laws and Regulations, and without such notice to

ENGINEER, CONTRACTOR shall bear all costs arising therefrom; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance with such Laws and Regulations.

Taxes

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

Use of Premises:

- 6.16 CONTRACTOR shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Project site and land and areas identified in and permitted by the Contract Documents and other land and areas permitted by Laws and Regulations, right-of-way, permits, and easements, and shall not unreasonably encumber the premises 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 land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against OWNER or ENGINEER by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim by arbitration or at law. CONTRACTOR shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold OWNER and ENGINEER harmless from and against all claims, damages, losses, and expenses (including, but not limited to, fees of engineers, architects, attorneys, and other professionals, and court and arbitration costs) arising directly, indirectly, or consequentially out of any action, legal or equitable, brought by any such other party against OWNER or ENGINEER to the extent based on a claim arising out of CONTRACTOR's performance of the Work.
- 6.17 During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the Work. At the completion of the Work, CONTRACTOR shall remove all waste materials, rubbish, and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by OWNER. CONTRACTOR shall restore to their original condition all property not designated for alteration by the Contract Documents.
- 6.18 CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

Record Documents:

- 6.19 CONTRACTOR shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, work Directive Changes, Field Orders, and written interpretations and clarifications (issued pursuant to Paragraph 9.4) in good order and annotated to show all changes made during construction. These record documents together with all approved Shop Drawings shall be available to ENGINEER for reference. Upon completion of the Work, these record documents, samples, and Shop Drawings shall be delivered to the ENGINEER for the OWNER.

Safety and Protection:

- 6.20 CONTRACTOR shall be 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:
- 6.20.1 All employees on the Work and other persons and organizations who may be affected thereby;
 - 6.20.2 All the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and
 - 6.20.3 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.

CONTRACTOR shall comply with all applicable Laws and Regulations of any public body having jurisdiction for the safety of persons or property or to protect them 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 utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property referred to in Paragraph 6.20.2 or 6.20.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish 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 and Specifications or to the acts or omissions of OWNER or ENGINEER or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR). CONTRACTOR's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with Paragraph 14.13 that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

- 6.21 CONTRACTOR shall designate a responsible representative at the site whose duty shall be the prevention of accidents. This person shall be CONTRACTOR's superintendent unless otherwise designated in writing by the CONTRACTOR to the OWNER.

Emergencies:

- 6.22 In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from ENGINEER or OWNER, is obligated to act to prevent threatened damage, injury, or loss. CONTRACTOR shall give ENGINEER prompt written notice in CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If ENGINEER determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Work Directive Change or Change Order will be issued to document the consequences of the changes or variations.

In the event a national emergency occurs, and a public work being performed under this contract is stopped, directly or indirectly, because of the freezing or diversion of materials, equipment or labor, as the result of an order or a proclamation of the President of the United States, or of an order of any federal authority, and the circumstances or conditions are such that it is impracticable

within a reasonable time to proceed with a substantial portion of the work, then the OWNER and the CONTRACTOR may, by written agreement, terminate said contract.

Shop Drawings and Samples:

- 6.23 After checking and verifying all field measurements and after complying with applicable procedures specified in the General Requirements, CONTRACTOR shall submit to ENGINEER for review and approval in accordance with the accepted schedule of Shop Drawing submissions (see paragraph 2.9), or for other appropriate action if so indicated in the Supplementary Conditions, three copies (unless otherwise specified in the General Requirements) of all Shop Drawings, which will bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to review of the submittal. All submittals shall be identified as ENGINEER may require. The data shown on the Shop Drawings shall be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to enable ENGINEER to review the information as required.
- 6.24 CONTRACTOR shall also submit to ENGINEER for review and approval, with such promptness as to cause no delay in the Work, all samples required by the Contract Documents. All samples shall have been checked by and accompanied by a specific written indication that CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to review of the submittal and shall be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which intended.
- 6.25.1 Before submission of each Shop Drawing or sample, CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar data with respect thereto and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.
- 6.25.2 At the time of each submission, CONTRACTOR shall give ENGINEER specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each Shop Drawing submitted to ENGINEER for review and approval of each such variation.
- 6.26 ENGINEER will review and approve with reasonable promptness Shop Drawings and samples, but ENGINEER's review and approval will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences, or procedures of construction (except where a specific means, method, technique, sequence, or procedure of construction is indicated in or required 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. CONTRACTOR shall make corrections required by ENGINEER and shall return the required number of corrected copies of Shop Drawings and submit as required new samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.
- 6.27 ENGINEER's review and approval of Shop Drawings or samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of submission as required by Paragraph 6.25.2 and ENGINEER has given specific written approval of each such variation by a specific written notation thereof incorporated in or accompanying the Shop Drawing or sample approval; nor will any approval by the

ENGINEER relieve CONTRACTOR from responsibility for errors or omissions in the Shop Drawing or from responsibility for having complied with the provisions of Paragraph 6.25.1.

- 6.28 Where a Shop Drawing or sample is required by the Specifications, any related Work performed prior to ENGINEER's review and approval of the pertinent submittal will be at the sole expense and responsibility of the CONTRACTOR.

Continuing the Work:

- 6.29 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 15.5 or as CONTRACTOR and OWNER may otherwise agree in writing.

Indemnification:

- 6.30 To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER and ENGINEER and their consultants, agents, and employees from and against all claims, damages, losses, and expenses, direct, indirect, or consequential (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals and court and arbitration costs) arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss, or expense (a) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is imposed by Laws and Regulations regardless of the negligence of any such party.
- 6.31 In any and all claims against OWNER or ENGINEER or any of the consultants, agents, or employees by any employee of CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.30 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 or other person or organization under the worker's or workmen's compensation acts, disability benefit acts, or other employee benefit acts.
- 6.32 The obligations of CONTRACTOR under Paragraph 6.30 shall not extend to the liability of ENGINEER, ENGINEER's consultants, agents, or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs, or specifications.

ARTICLE 7 – OTHER WORK

Related Work at Site:

- 7.1 OWNER may perform other work related to the Project at the site by OWNER's own forces, have other work performed by utility owners, or let other direct contracts therefor which shall contain General Conditions similar to these. If the fact that other such work is to be performed was not noted in the Contract Documents, written notice thereof will be given to CONTRACTOR prior to starting any such additional work; and, if CONTRACTOR believes that such performance will involve additional expense to CONTRACTOR or requires additional time, and parties are unable

to agree as to the extent thereof, CONTRACTOR may make a claim therefor as provided in Articles 11 and 12.

- 7.2 CONTRACTOR shall afford each utility owner and other contractor who is a party to such direct contract (or OWNER, if OWNER is performing the additional work with OWNER's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the Work with theirs. CONTRACTOR shall do all cutting, fitting, and patching of his Work that may be required to make its several parts come together properly and integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of CONTRACTOR in said direct contract between OWNER and such utility owners and other contractors.
- 7.3 If any part of CONTRACTOR's Work depends for proper execution or results upon the work of any such other contractor or utility owner (or OWNER), CONTRACTOR shall inspect and promptly report to ENGINEER in writing any delays, defects, or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. CONTRACTOR's failure so to report will constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR's work except for latent or nonapparent defects and deficiencies in the other work.

Coordination:

- 7.4 If OWNER contracts with others for the performance of other work on the Project at the site, the person or organization who will have the authority and responsibility for coordination of the activities among the various prime contractors will be identified in the Supplementary Conditions, and the specific matters to be covered by such authority and responsibility will be itemized, and the extent of such authority and responsibility will be provided, in the Supplementary Conditions. Unless otherwise provided in the Supplementary Conditions, the specific matters to be covered by such authority and responsibility will be itemized, and the extent of such authority and responsibility will be provided, in the Supplementary Conditions. Unless otherwise provided in the Supplementary Conditions, neither OWNER nor ENGINEER shall have any authority or responsibility in respect of such coordination.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

- 8.1 OWNER shall issue all communications to CONTRACTOR through ENGINEER or through OWNER'S RESIDENT PROJECT REPRESENTATIVE.
- 8.2 In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer against whom CONTRACTOR makes no reasonable objection, whose status under the Contract Documents shall be that of the former ENGINEER. Any dispute in connection with such appointment shall be subject to arbitration.
- 8.3 OWNER shall furnish the data required by OWNER under the Contract Documents promptly and shall make payments to CONTRACTOR promptly after they are due as provided in Paragraphs 14.4 and 14.13.
- 8.4 OWNER's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.1 and 4.4. Paragraph 4.2 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations

and tests of subsurface conditions at the site and in existing structures which have been utilized by ENGINEER in preparing the Drawings and Specifications.

- 8.5 OWNER's responsibilities in respect of purchasing and maintaining liability and property insurance are set forth in Paragraphs 5.5 through 5.8.
- 8.6 OWNER is obligated to execute Change Orders as indicated in Paragraph 10.4.
- 8.7 OWNER's responsibility in respect of certain inspections, tests, and approvals is set forth in Paragraph 13.4.
- 8.8 In connection with OWNER's right to stop Work or suspend Work, see Paragraphs 13.10 and 15.1. Paragraph 15.2 deals with OWNER's right to terminate services of CONTRACTOR under certain circumstances.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

Owner's Representative:

- 9.1 ENGINEER ~~will~~ may be ~~an~~ OWNER's representative during the construction period. The duties and responsibilities and the limitations of authority of ENGINEER as OWNER's representative during construction are set forth in the Contract Documents and shall not be extended without written consent of OWNER and ENGINEER.

Visits to Site:

- 9.2 ENGINEER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. ENGINEER's efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform to the Contract Documents. On the basis of such visits and on-site observations, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defects and deficiencies in the Work.

Project Representation:

- 9.3 The OWNER ~~and ENGINEER agree,~~ ENGINEER will furnish a Resident Project Representative to ~~assist ENGINEER in~~ observe the performance of the Work or such Representative may be furnished to the City by the Engineer. The duties, responsibilities, and limitations of authority of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions. ~~If OWNER designates another agent at the site who is not ENGINEER's agent or employee, the duties, responsibilities, and limitations of authority of such other person will be as provided in the Supplementary Conditions.~~

Clarifications and Interpretations:

- 9.4 ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the Contract Documents (in the form of Drawings or otherwise) as ENGINEER may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If CONTRACTOR believes that a written clarification or interpretation justifies an increase in the Contract Price or an extension in the Contract Time and the parties are

unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in Article 11 or Article 12.

Authorized Variations in Work:

- 9.5 ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve a change in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents. These may be accomplished with a Field Order, and shall be binding on OWNER, and also on CONTRACTOR, who shall perform the Work involved promptly. If CONTRACTOR believes that a Field Order justifies an increase in the Contract Price or an extension in the Contract Time and the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in Article 11 or Article 12.

Rejecting Defective Work:

- 9.6 ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be defective, and will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.9, whether or not the Work is fabricated, installed, or completed.

Shop Drawings, Samples, Change Orders, and Payments:

- 9.7 In connection with ENGINEER's responsibility for Shop Drawing and samples, see Paragraphs 6.23 through 6.28 inclusive.
- 9.8 In connection with ENGINEER's responsibilities as to Change Orders, see Articles 10, 11, and 12.
- 9.9 In connection with ENGINEER's responsibility in respect of applications for Payment, etc., see Article 14.

Determinations for Unit Prices:

- 9.10 ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. ENGINEER will review with CONTRACTOR ENGINEER's preliminary determinations on such matters before rendering a written determination thereon (by recommending an Application for Payment or otherwise). ENGINEER's written decision thereon shall be final and binding upon OWNER and CONTRACTOR, unless, within ten days after the date of any such decision, either OWNER or CONTRACTOR delivers to the other party to the Agreement and to ENGINEER written notice of intent to appeal from such a decision.

Decisions on Disputes:

- 9.11 ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes, and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and claims under Article 11 and 12 in respect of changes in the Contract Price or Contract Time will be referred initially to ENGINEER in writing with a request for a formal decision in accordance with this paragraph, which ENGINEER will render in writing within a reasonable time. Written notice of each such claim, dispute, and other matter shall be delivered by the claimant to ENGINEER and the other party to the Agreement promptly (but in no event later than thirty days) after the occurrence of the event giving rise thereto, and written supporting data will be submitted to ENGINEER and the other party within sixty days of such occurrence unless ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim.

- 9.12 When functioning as interpreter and judge under Paragraphs 9.10 and 9.11 ENGINEER shall 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. The rendering of a decision by ENGINEER pursuant to Paragraphs 9.10 and 9.11 with respect to any such claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.16) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws and Regulations in respect of any such claim, dispute, or other matter.

Limitations of ENGINEER's Responsibilities:

- 9.13 Neither ENGINEER's authority to act under this Article 9 or elsewhere in the Contract Documents nor any decision made by ENGINEER in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of ENGINEER to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization performing any of the Work, or to any surety for any of them.
- 9.14 Whenever 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 requirement, direction, review, or judgment of ENGINEER as to the Work, it is intended that such requirement, direction, review, or judgment will be solely to evaluate the Work for compliance with 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 ENGINEER any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.15 or 9.16.
- 9.15 ENGINEER will not be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, and ENGINEER will not be responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents.
- 9.16 ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.

ARTICLE 10 – CHANGES IN THE WORK

- 10.1 Without invalidating the Agreement and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions, or revisions in the Work; these will be authorized by a Written Amendment, a Change Order, or a Work Directive Change. 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).
- 10.2 If OWNER and CONTRACTOR are unable to agree as to the extent, if any, of an increase or decrease in the Contract Price, or an extension or shortening of the Contract Time that should be allowed as a result of a Work Directive Change, a claim may be made therefor as provided in Article 11 or Article 12.
- 10.3 CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any Work performed that is not required by the Contract Documents as amended, modified, and supplemented as provided in Paragraphs 3.4 and 3.5, except in the case

of an emergency as provided in Paragraph 6.22 and except in the case of uncovering work as provided in Paragraph 13.9.

10.4 OWNER and CONTRACTOR shall execute appropriate Change Orders (or Written Amendments) covering:

10.4.1 Changes in the Work which are ordered by OWNER, pursuant to Paragraph 10.1, are required because of acceptance of defective Work under Paragraph 13.13 or correcting defective Work under Paragraph 13.14, or are agreed to by the parties;

10.4.2 Changes in the Contract Price or Contract Time which are agreed to by the parties; and

10.4.3 Changes in the Contract Price or Contract Time which embody the substance of any written decision rendered by ENGINEER pursuant to Paragraph 9.11;

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 6.29.

10.5 If notice of any change affecting the general scope of the Work or provisions of the Contract Documents (including but not limited to, Contract Price or Contract Time) 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, and the amount of each applicable Bond will be adjusted accordingly.

ARTICLE 11 – CHANGE OF CONTRACT PRICE

11.1 The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for performing the Work. All duties, responsibilities, and obligations assigned to or undertaken by CONTRACTOR shall be at his expense without change in the Contract Price.

11.2 The Contract Price may only be changed by a Change Order or by a Written Amendment. Any claim for an increase or decrease in the Contract Price shall be based on written notice delivered by the party making the claim to the other party and to ENGINEER promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within sixty days of such occurrence (unless ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by claimant's written statement that the amount claimed covers all known amounts (direct, indirect, and consequential) to which the claimant is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Price shall be determined by ENGINEER in accordance with Paragraph 9.11 if OWNER and CONTRACTOR cannot otherwise agree on the amount involved. No claim for an adjustment in the Contract Price will be valid if not submitted in accordance with this Paragraph 11.2.

11.3 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

11.3.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved (subject to the provisions of Paragraphs 11.9.1 through 11.9.3 inclusive);

11.3.2 By mutual acceptance of a lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.6.2.1); or

- 11.3.3 On the basis of the Cost of the Work (determined as provided in Paragraphs 11.4 and 11.5) plus a CONTRACTOR's Fee for overhead and profit (determined as provided in Paragraphs 11.6 and 11.7).

Cost of the Work:

11.4 The term "Cost of the Work" means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. 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 11.5:

11.4.1 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. 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' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation, and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing Work after regular working hours, on Sunday, or legal holidays, shall be included in the above to the extent authorized by OWNER.

11.4.2 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 all returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

11.4.3 Payments made by CONTRACTOR to the Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from Subcontractors acceptable to CONTRACTOR and shall deliver such bids to OWNER who will then determine, with the advice of ENGINEER, which bids will be accepted. If a 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 shall be determined in the same manner as CONTRACTOR's Cost of the Work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

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

11.4.5 Supplemental costs including the following:

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

11.4.5.2 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.

11.4.5.3 Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of ENGINEER, and all costs of transportation, loading, unloading, installation, dismantling, and removal thereof – all in accordance with 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.

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

11.4.5.5 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.

11.4.5.6 Losses and damages (and related expenses), not compensated by insurance or otherwise, to the Work 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 5.9), provided they have resulted from causes other than the negligence of CONTRACTOR, and 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 requires reconstruction and CONTRACTOR is placed in charge thereof, CONTRACTOR shall be paid for services a fee proportionate to that stated in Paragraph 11.6.2.

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

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

11.4.5.9 Cost of premiums for additional Bonds and insurance required because of changes in the Work and premiums for property insurance within the deductible amounts established by OWNER in accordance with Paragraph 5.9.

11.5 The term "Cost of the Work" shall not include any of the following:

11.5.1 Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general 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 a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.4.1 or specifically covered by Paragraph 11.4.4 – all of which are to be considered administrative costs covered by the CONTRACTOR's Fee.

- 11.5.2 Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the site.
- 11.5.3 Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.
- 11.5.4 Cost of premiums for all Bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by Paragraph 11.4.5.9 above).
- 11.5.5 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.
- 11.5.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 11.4.

Contractor's Fee:

- 11.6 The Contractor's Fee allowed to CONTRACTOR for overhead and profit shall be determined as follows:
 - 11.6.1 A mutually acceptable fixed fee; or if none can be agreed upon,
 - 11.6.2 A fee based on the following percentages of the various portions of the Cost of the Work:
 - 11.6.2.1 For costs incurred under Paragraphs 11.4.1 and 11.4.2, the Contractor's Fee shall be fifteen percent;
 - 11.6.2.2 For costs incurred under Paragraph 11.4.3, the Contractor's Fee shall be five percent; and if a subcontract is on the basis of Cost of the Work Plus a Fee, the maximum allowable to CONTRACTOR on account of overhead and profit of all Subcontractors shall be fifteen percent.
 - 11.6.2.3 No fee shall be payable on the basis of costs itemized under Paragraphs 11.4.4, 11.4.5, and 11.5;
 - 11.6.2.4 The amount of credit to be allowed by CONTRACTOR to OWNER for any such change which results in a net decrease in cost shall be the amount of the actual net decrease plus a deduction in the CONTRACTOR's Fee by an amount equal to ten percent of the net decrease; and
 - 11.6.2.5 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 11.6.2.1 through 11.6.2.4 inclusive.
- 11.7 Whenever the cost of any Work is to be determined pursuant to paragraph 11.4 or 11.5, CONTRACTOR shall submit in form acceptable to ENGINEER an itemized cost breakdown together with supporting data.

Cash Allowances:

11.8 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 done by such Subcontractors or Suppliers and for such sums within the limit of the allowances as may be acceptable to ENGINEER. CONTRACTOR agrees that:

11.8.1 The 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

11.8.2 CONTRACTOR's cost for unloading and handling on the site, labor, installation costs, overhead, profit, and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances. No demand for additional payment on account of any thereof will be valid.

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

Unit Price Work:

11.9.1 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 established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of the Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by ENGINEER in accordance with paragraph 9.10.

11.9.2 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.

11.9.3 Where the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement and there is no corresponding adjustment with respect to any other item of Work and if CONTRACTOR believes that CONTRACTOR has incurred additional expense as a result thereof, CONTRACTOR may make a claim for an increase in the Contract Price in accordance with Article 11 if the parties are unable to agree as to the amount of any such increase.

ARTICLE 12 – CHANGE OF CONTRACT TIME

12.1 The Contract Time may only be changed by a Change Order or a Written Amendment. Any claim for an extension or shortening of the Contract Time shall be based on written notice delivered by the party making the claim to the other party and ENGINEER promptly (but in no case later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within sixty days of such occurrence (unless ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which claimant has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Time shall be determined by ENGINEER in accordance with paragraph 9.11 if OWNER

and CONTRACTOR cannot otherwise agree. No claim for adjustment in Contract Time will be valid if not submitted in accordance with the requirements of this paragraph 12.1.

- 12.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of CONTRACTOR if a claim is made therefor as provided in Paragraph 12.1. Such delays shall include, but not be limited to, acts or neglect by OWNER or others performing additional work as contemplated by Article 7, or to fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.
- 12.3 All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Article 12 shall not exclude recovery for damages (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals and court and arbitration costs) for delay by either party.

ARTICLE 13 – WARRANTY AND GUARANTEE; TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

Warranty and Guarantee:

- 13.1 CONTRACTOR warrants and guarantees to OWNER and ENGINEER that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to CONTRACTOR. All defective Work, whether or not in place, may be rejected, corrected, or accepted as provided in this Article 13.

Access to Work:

- 13.2 ENGINEER and ENGINEER's representatives, other representatives of OWNER, testing agencies, and governmental agencies with jurisdictional interests shall have access to the Work at reasonable times for their observation, inspection, and testing. CONTRACTOR shall provide proper and safe conditions for such access.

Tests and Inspections:

- 13.3 CONTRACTOR shall give ENGINEER timely notice of readiness of the Work for all required inspections, tests, or approvals.
- 13.4 If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) to specifically be inspected, tested, or approved, CONTRACTOR shall assume full responsibility therefor, pay all costs in connection therewith and furnish ENGINEER the required certificates of inspection, testing, or approval. CONTRACTOR shall also be responsible for and shall pay all cost in connection with OWNER's or ENGINEER's acceptance of a Supplier of materials or equipment proposed to be incorporated in the Work, or of materials or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work. The cost of all other inspections, tests, and approvals in addition to the above which are required by the Contract Documents shall be paid by OWNER (unless otherwise specified).
- 13.5 All inspections, tests, or approvals other than those required by Laws or Regulations of any public body having jurisdiction shall be performed by organizations acceptable to OWNER and CONTRACTOR (or by ENGINEER if so specified).
- 13.6 If any Work (including the work of others) that is to be inspected, tested, or approved is covered without written concurrence of ENGINEER, it must, if requested by ENGINEER, be uncovered for observation. Such uncovering shall be at CONTRACTOR's expense unless CONTRACTOR

has given ENGINEER timely notice of CONTRACTOR's intention to cover such Work and ENGINEER has not acted with reasonable promptness in response to such notice.

- 13.7 Neither observations by ENGINEER nor inspections, tests, or approvals by others shall relieve CONTRACTOR from his obligations to perform the Work in accordance with the Contract Documents.

Uncovering Work:

- 13.8 If any Work is covered contrary to the written request of ENGINEER, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and replaced at CONTRACTOR's expense.
- 13.9 If ENGINEER considers it necessary or advisable that covered Work be observed by ENGINEER or inspected or tested by others, CONTRACTOR, at ENGINEER's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as ENGINEER may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment. If it is found that such Work is defective, CONTRACTOR shall bear all the direct, indirect, and consequential costs of such uncovering, exposure, observation, inspection, and testing and of satisfactory reconstruction (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals), and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, may make a claim therefor as provided in Article 11. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction; and, if the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in Articles 11 and 12.

Owner May Stop the Work:

- 13.10 If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workmen or suitable materials or equipment, or fails to furnish or 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 or any other party.

Correction or Removal of Defective Work:

- 13.11 If required by ENGINEER, CONTRACTOR shall promptly, as directed, either correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by ENGINEER, remove it from the site and replace it with nondefective Work. CONTRACTOR shall bear all direct, indirect, and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals) made necessary thereby.

One-Year Correction Period:

- 13.12 If within one year after the date of Substantial Completion, or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provisions of the Contract Documents, any Work is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instruction, either correct such defective Work, or, if it has been rejected by OWNER, remove it from the site and replace it with nondefective Work. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an

emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect, and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals), will be paid by CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

Acceptance of Defective Work:

- 13.13 If, instead of requiring correction or removal and replacement of defective Work, OWNER (and, prior to ENGINEER's recommendation of final payment, also ENGINEER) prefers to accept it, OWNER may do so. CONTRACTOR shall bear all direct, indirect, and consequential costs attributable to OWNER's evaluation of and determination to accept such defective Work (such costs to be approved by ENGINEER as to reasonableness and to include but not be limited to fees and charges of engineers, architects, attorneys, and other professionals). If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, OWNER may make a claim therefor as provided in Article 11. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

Owner May Correct Defective Work:

- 13.14 If CONTRACTOR fails within a reasonable time after written notice of ENGINEER to proceed to correct and to correct defective Work or to remove and replace rejected Work as required by ENGINEER in accordance with Paragraph 13.11, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days' written notice to CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph OWNER shall proceed expeditiously. To the extent necessary to complete corrective and 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 such access to the site as may be necessary to enable OWNER to exercise the rights under this paragraph. All direct, indirect, and consequential costs of OWNER in exercising such rights and remedies shall be charged against CONTRACTOR in an amount approved as to reasonableness by ENGINEER, 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, and, if the parties are not able to agree as to the amount thereof, OWNER may make a claim therefor as provided in Article 11. Such direct, indirect, and consequential costs shall include but not be limited to fees and charges of engineers, architects, attorneys, and other professionals, all court and arbitration costs, and all costs of repair and replacement of work of others destroyed or damaged by correction, removal, or replacement of CONTRACTOR's defective Work. CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies hereunder.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

Schedule of Values:

~~14.1 The schedule of values established as provided in paragraph 2.9 will serve as the basis for progress payments and will be incorporated into an Application for Payment acceptable to the ENGINEER. Acceptable form shall be AIA Document G702 or equal. Progress payments on account of Unit Price Work will be based on the number of units completed.~~

Application for Progress Payment:

14.2 At least twenty days before each progress payment falls due (but not more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents and also as ENGINEER may reasonably require. 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, charges, security interests, and encumbrances (which are hereinafter in these General Conditions referred to as “Liens”) and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect OWNER’s interest therein, all of which must be satisfactory to OWNER. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

CONTRACTOR’s Warranty of Title:

14.3 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.

Review of Applications for Progress Payment:

14.4 ENGINEER will, within ten days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER, or return the Application to CONTRACTOR indicating in writing ENGINEER’s reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application. Ten days after presentation of the Application for Payment with ENGINEER’s recommendation, the amount recommended will (subject to the provisions of the last sentence of paragraph 14.7) become due and when due shall be paid by OWNER to CONTRACTOR.

14.5 ENGINEER’s recommendation of any payment requested in an Application for Payment will constitute a representation by ENGINEER to OWNER, based on ENGINEER’s on-site observations of the Work in progress and on ENGINEER’s review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best to ENGINEER’s knowledge, information, and belief, the quality of the Work is 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 9.10, and to any other qualifications stated in the recommendation); and that CONTRACTOR is entitled to payment of the amount recommended. However, by recommending any such payment ENGINEER will not thereby be deemed to have represented that exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to ENGINEER in the

Contract Documents, or that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid additionally by OWNER or OWNER to withhold payment to CONTRACTOR.

- 14.6 ENGINEER's recommendation of final payment will constitute an additional representation by ENGINEER to OWNER that the conditions precedent to CONTRACTOR's being entitled to final payment as set forth in paragraph 14.13 have been fulfilled.
- 14.7 ENGINEER may refuse to recommend the whole or any part of any payment if, in ENGINEER's opinion, it would be incorrect to make such representations to OWNER. ENGINEER may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results or subsequent inspections or tests, nullify any such payment previously recommended to such extent as may be necessary in ENGINEER's opinion to protect OWNER from loss because:
- 14.7.1 The Work is defective, or completed Work has been damaged requiring correction or replacement;
 - 14.7.2 The Contract Price has been reduced by Change Order or Written Amendment;
 - 14.7.3 OWNER has been required to correct defective Work or complete work in accordance with Paragraph 13.14; or
 - 14.7.4 Of ENGINEER's actual knowledge of the occurrence of any of the events enumerated in paragraphs 15.2.1 through 15.2.9 inclusive.

OWNER may refuse to make payment of the full amount recommended by ENGINEER because claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work or Liens have been filed in connection with the Work or there are other items entitling OWNER to a set-off against the amount recommended, but OWNER must give CONTRACTOR immediate written notice (with a copy to ENGINEER) stating the reasons for such action.

Substantial Completion:

- 14.8 When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a Notice of Substantial Completion. Within a reasonable time thereafter, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of the Work to determine the status of completion. If ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and deliver to OWNER a tentative Notice of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the Notice a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative Notice during which to make written objection to ENGINEER as to any provisions of the Notice or attached list. If, after considering such objections, ENGINEER concludes that the Work is not substantially complete, ENGINEER will within fourteen days after submission of the tentative Notice to OWNER notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of OWNER's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said fourteen days execute and deliver to OWNER and CONTRACTOR a definitive Notice of substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative Notice ENGINEER believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative Notice of Substantial Completion ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibilities pending final payment between OWNER and

CONTRACTOR with respect to security, operation, safety, maintenance, heat, utilities, insurance, and warranties. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform ENGINEER prior to ENGINEER's issuing the definitive Notice of Substantial Completion, ENGINEER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

- 14.9 OWNER shall have the right to exclude CONTRACTOR from the Work after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on a the tentative list of items to be completed or corrected.

Partial Utilization:

- 14.10 Use by OWNER of any finished part of the Work, which has specifically been identified in the Contract Documents, or which OWNER, ENGINEER, and CONTRACTOR agree constitutes a separately functioning and fully usable part of the Work that can be used by OWNER without substantial interference with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the work subject to the following:

14.10.1 OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees, CONTRACTOR will certify to OWNER and ENGINEER that said part of the Work is substantially complete (except Striping) and request ENGINEER to issue a Notice of Substantial Completion for that part of the Work. CONTRACTOR may at any time notify OWNER and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended use and request ENGINEER to issue a Notice of Substantial Completion for that part of the Work. Within a reasonable time after either such request, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of that part of the Work to determine its status of completion. If ENGINEER does not consider that part of the Work to be substantially complete, ENGINEER will notify OWNER and CONTRACTOR in writing giving his reasons therefor. ~~If ENGINEER considers that part of the Work to be substantially complete, the provisions of paragraphs 14.8 and 14.9 will apply with respect to Notice of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.~~

14.10.2 OWNER may at any time request CONTRACTOR in writing to permit OWNER to take over operation of any such part of the work although it is not substantially complete. A copy of such request will be sent to ENGINEER, and within a reasonable time thereafter, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of that part of the Work to determine its status of completion and will prepare a list of the items remaining to be completed or corrected thereon prior to final payment. If CONTRACTOR does not object in writing to OWNER and ENGINEER that such part of the Work is not ready for separate operation by OWNER, ENGINEER will finalize the list of items to be completed or corrected and will deliver such list to OWNER and CONTRACTOR together with a written recommendation as to the division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, maintenance, utilities, insurance, warranties, and guarantees for that part of the Work which will become binding upon OWNER and CONTRACTOR at the time when OWNER takes over such operation (unless they shall have otherwise agreed in writing and so informed ENGINEER). During such operation and prior to Substantial Completion of such part of the Work, OWNER shall allow CONTRACTOR reasonable access to complete or correct items on said list and to complete other related Work.

14.10.3 On projects involving street maintenance or street reconstruction/reconstruction traffic, on such streets ("occupancy") will be allowed as soon as the work is completed to the satisfaction of the Project Representative for such usage and no written authorization to

the contractor will be required. Such usage does not preclude later determination by the Engineer or the City that deficiencies or errors in such work that have been identified prior to, at, or later than such usage must be corrected by the Contractor to receive payment for the work.~~No occupancy or separate operation of part of the Work shall be accomplished prior to compliance with the requirements of paragraph 5.15 in respect of property insurance.~~

Final Inspection:

- 14.11 Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, ENGINEER will 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 remedy such deficiencies.

Final Application for Payment:

- 14.12 After CONTRACTOR has completed all ~~such~~ needed corrections to the satisfaction of ENGINEER and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents (as provided in paragraph 6.19), and other documents—all as required by the Contract Documents, and after ENGINEER has indicated that the Work is acceptable (subject to the provisions of Paragraph 14.16), CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents and such other data and schedules as ENGINEER may reasonably require, together with complete and legally effective releases or waivers (satisfactory to OWNER) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full; an affidavit of CONTRACTOR that the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed, and that 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; and consent of the surety, if any, to final payment. If any Subcontractor or Supplier fails to furnish a release or receipt in full, CONTRACTOR may furnish a bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien.

Final Payment and Acceptance:

- 14.13 If, on the basis of ENGINEER's observation of the Work during construction and final inspection, and ENGINEER's review of the final Application for payment and accompanying documentation—all as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten days after receipt of the final Application for Payment, indicate in writing his recommendation of payment and present the Application to OWNER for payment. Thereupon ENGINEER will give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of Paragraph 14.16. otherwise, ENGINEER will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. Thirty-five days after presentation to OWNER of the Application and accompanying documentation, in appropriate form and substance, and with ENGINEER's recommendation and notice of acceptability, the amount recommended by ENGINEER will become due and shall be paid by OWNER to CONTRACTOR.
- 14.14 If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed and if ENGINEER so confirms, OWNER shall, upon receipt of CONTRACTOR's final Application of

payment and recommendation of ENGINEER, and without terminating the Agreement, 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 5.1, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

Contractor's Continuing Obligation:

14.15 CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by ENGINEER, nor the issuance of a Notice of Substantial Completion, nor any payment by OWNER to CONTRACTOR under the Contract Documents, nor any use or occupancy of the Work or any part thereof by OWNER, nor any act of acceptance by OWNER nor any failure to do so, nor review or approval of any Shop Drawing or sample submittal, nor the issuance of a notice of acceptability by ENGINEER pursuant to Paragraph 14.13, nor any correction of defective Work by OWNER will constitute an acceptance of Work not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents (except as provided in paragraph 14.16).

Waiver of Claims:

14.16 The making and acceptance of final payment shall constitute:

14.16.1 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 14.11, or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein; however, it shall not constitute a waiver by OWNER of any rights in respect of CONTRACTOR's continuing obligations under the Contract Documents; and

14.16.2 A waiver of all claims by CONTRACTOR against OWNER other than those previously made in writing and still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

Owner May Suspend Work:

15.1 OWNER may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR and ENGINEER which shall fix the date on which Work shall be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if CONTRACTOR makes an approved claim therefor as provided in Articles 11 and 12.

Owner May Terminate:

15.2 Upon the occurrence of any one or more of the following events:

15.2.1 If CONTRACTOR commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code) as now or hereafter in effect, or if CONTRACTOR

takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;

- 15.2.2 If a petition is filed against CONTRACTOR under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against CONTRACTOR under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;
- 15.2.3 If CONTRACTOR makes a general assignment for the benefit of creditors;
- 15.2.4 If a trustee, receiver, custodian, or agent of CONTRACTOR is appointed under applicable law or under contract, whose appointment or authority to take charge of property of CONTRACTOR is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of CONTRACTOR's creditors;
- 15.2.5 If CONTRACTOR admits in writing an inability to pay its debts generally as they become due;
- 15.2.6 If CONTRACTOR persistently fails 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 2.9 as revised from time to time);
- 15.2.7 If CONTRACTOR disregards Laws or Regulations of any public body having jurisdiction;
- 15.2.8 If CONTRACTOR disregards the authority of ENGINEER; or
- 15.2.9 If CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents,

OWNER may, after giving CONTRACTOR (and the surety, if there be one) seven days' written notice and to the extent permitted by Laws and Regulations, terminate the services of CONTRACTOR, exclude CONTRACTOR from the site and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment, and machinery at the site and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct, indirect, and consequential costs of completing the Work, (including but not limited to the fees and charges of engineers, architects, attorneys, and other professionals, and court and arbitration costs) such excess shall be paid to CONTRACTOR. If such costs exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such costs incurred by OWNER will be approved as to reasonableness by ENGINEER and incorporated in a Change Order, but in finished the Work OWNER shall not be required to obtain the lowest price for the Work performed.

- 15.3 Where CONTRACTOR's services have been so terminated by OWNER, the termination shall not affect any rights of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of monies due CONTRACTOR by OWNER will not release CONTRACTOR from liability.
- 15.4 Upon seven days' written notice to CONTRACTOR and ENGINEER, OWNER may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate

the Agreement. In such case, CONTRACTOR shall be paid for all Work executed and any expense sustained plus reasonable termination expenses, which will include, but not be limited to, direct, indirect, and consequential costs (including but not limited to the fees and charges of engineers, architects, attorneys, and other professionals, and court and arbitration costs).

Contractor May Stop Work or Terminate:

15.5 If, through no act or fault of CONTRACTOR, the Work is suspended for a period of more than ninety days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within thirty days after it is submitted, or OWNER fails for thirty days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days' written notice to OWNER and ENGINEER, terminate the Agreement and recover from OWNER payment for all Work executed and any expense sustained plus reasonable termination expenses. In addition and in lieu of terminating the Agreement, if ENGINEER has failed to act on an Application for Payment or OWNER has failed to make any payment as aforesaid, CONTRACTOR may, upon seven days' notice to OWNER and ENGINEER, stop the Work until payment of all amounts then due. The provisions of this paragraph shall not relieve CONTRACTOR of his obligations under paragraph 6.29 to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with OWNER.

ARTICLE 16 – DISPUTE RESOLUTION
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16.1 Pursuant to the provisions of Public Contract Code Section 20104, et seq., all public works claims of \$375,000 or less between a contractor and a governmental agency, unless the public agency has selected to resolve pursuant to Paragraph 16.2 (PCC Section 10240 et seq.), shall be resolved as follows:

A "Claim" means a demand by the contractor for any of the following:

- (a) A time extension;
- (b) Payment for work done pursuant to the contract for a public work and for which payment is not otherwise provided for or that the claimant is not otherwise entitled to; or
- (c) A disputed payment amount.

Procedures:

16.1.1 The claim shall be made by the contractor in writing and include documents necessary to substantiate the claim and must be filed on or before the date of final payment.

16.1.2 The local agency's written response shall be made as follows:

- (a) For claims of \$50,000 or less: either a written response within 45 days of receipt of the claim, or a written request within 30 days of receipt of the claim for additional documentation.

If additional documentation is requested, the local agency's written response to the claim shall be submitted 1) within 15 days after receipt of the additional documentation; or 2) within the same time period it took claimant to produce additional information, whichever is greater.

- (b) For claims of \$50,000 to \$375,000: either a written response within 60 days of receipt of the claim, or a written request within 30 days of receipt of the claim for additional documentation.

If additional documentation is requested, the local agency's written response to the claim shall be submitted 1) within 30 days after receipt of the additional documentation; or 2) within the same time period it took claimant to produce the additional information, whichever is greater.

- 16.1.3 If the claimant disputes the local agency's written response, or the agency fails to respond, the claimant may, within 15 days of response or within 15 days of the date a response was due, make a written demand for an informal conference to meet and confer in an attempt to settle the issue in dispute. Upon receipt of said written demand, the local agency shall schedule a settlement conference within 30 days of the demand.
- 16.1.4 Following the settlement conference, if the claim or any portion remains in dispute, the claimant may then file a claim as provided in Section 910 et seq. of the Government Code.
- 16.1.5 All civil actions filed to resolve claims subject to this article shall be in accordance with the provisions of Public Contract Code Section 20104.4 and 20104.6.
- 16.2 All claims, disputes, and other matters in question between OWNER and CONTRACTOR arising out of, or relating to the Contract Documents or the breach thereof (except for claims which have been waived by the making or acceptance of final payment as provided by paragraph 14.16 or as resolved by Paragraph 16.1 above) shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining subject to the limitations of this Article 16. This agreement so to arbitrate and any other agreement or consent to arbitrate entered into in accordance herewith as provided in this Article 16 will be specifically enforceable under the prevailing law of any court having jurisdiction.
- 16.3 No demand for arbitration of any claim, dispute, or other matter that is required to be referred to ENGINEER initially for decision in accordance with paragraph 9.11 shall be made until the earlier of (a) the date on which ENGINEER has rendered a decision or (b) the tenth day after the parties have presented their evidence to ENGINEER if a written decision has not been rendered by ENGINEER before that date. No demand for arbitration of any such claim, dispute, or other matter shall be made later than thirty days after the date on which ENGINEER has rendered a written decision in respect thereof in accordance with paragraph 9.11; and the failure to demand arbitration within said thirty days' period shall result in ENGINEER's decision being final and binding upon OWNER and CONTRACTOR. If ENGINEER renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence but shall not supersede the arbitration proceedings, except where the decision is acceptable to the parties concerned. No demand for arbitration of any written decision of ENGINEER rendered in accordance with paragraph 9.10 shall be made later than ten days after the party making such demand has delivered written notice of intention to appeal as provided in Paragraph 9.10.
- 16.4 Notice of the demand for arbitration shall be filed in writing with the other party to the Agreement and with the American Arbitration Association, and a copy shall be sent to ENGINEER for information. The demand for arbitration shall be made within the thirty-day or ten-day period specified in Paragraph 16.2 as applicable, and in all other cases within a reasonable time after the claim, dispute, or other matter in question has arisen, and in no event shall any such demand be made after institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.
- 16.5 No arbitration arising out of or relating to the Contract Documents shall include by consolidation, joinder, or in any other manner any other person or entity (including ENGINEER, ENGINEER's agents, employees, or consultants) who is not a party to this contract unless:
- 16.5.1 The inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration;

- 16.5.2 Such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings; and
- 16.5.3 The written consent of the other person or entity sought to be included and of OWNER and CONTRACTOR has been obtained for such inclusion, which consent shall make specific reference to this paragraph; but no such consent shall constitute consent to arbitration of any dispute not specifically described in such consent or to arbitration with any party not specifically identified in such consent.
- 16.6 The award rendered by the arbitrators will be final, judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to modification or appeal except to the extent permitted by Sections 10 and 11 of the Federal Arbitration Act (9 U.S.C. §§ 10,11).

ARTICLE 17 – MISCELLANEOUS

Giving Notice:

- 17.1 Whenever any provision of the Contract Documents requires the giving of written notice it shall be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

Computation of Time:

- 17.2.1 When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted for the computation.
- 17.2.2 A calendar day of twenty-four hours measured from midnight to the next midnight shall constitute a day.

General:

- 17.3 Should OWNER or CONTRACTOR suffer injury or damage to his person or property because of any error, omission, or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim shall be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this paragraph 17.3 shall not be construed as a substitute for or a waiver of any applicable statute of limitations or repose.
- 17.4 The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties thereto, and, in particular but without limitation, the warranties, guarantees, and obligations imposed upon CONTRACTOR by paragraphs 6.30, 13.1, 13.12, 13.14, 14.3, and 15.2 and all of the rights and remedies available to OWNER and ENGINEER thereunder, 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, and the provisions of this paragraph will be as effective as if repeated specifically in the dc in connection with each particular duty, obligation, right, and remedy to which they apply. All

representations, warranties, and guarantees made in the Contract Documents will survive final payment and termination or completion of the Agreement.

**SPECIAL PROVISIONS PART I
SUPPLEMENTARY CONDITIONS**

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**SPECIAL PROVISIONS – PART I
SUPPLEMENTARY CONDITIONS**

SECTION 1 PRECEDENCE

These Supplementary Conditions shall take precedence over similar items discussed in the General Conditions.

SECTION 2 DEFINITIONS

AGENCY or OWNER: CITY OF LEMOORE
 Department of Public Works
 711 W. Cinnamon Drive
 Lemoore, CA 93245
 Telephone: (559) 924-6735 Fax: (559) 924-6708

ENGINEER: Quad Knopf, Inc.
 5110 W. Cypress Avenue
 P.O. Box 3699
 Visalia, CA 93278
 Telephone: (559) 733-0440 Fax: (559) 733-7821

SECTION 3 PROPOSAL REQUIREMENTS AND CONDITIONS

3.1 Authority for the Work

The Plans and Specifications for the Work will be ratified and adopted by the City Council of the City of Lemoore on _____.

3.2 Contract Drawings

The plans or drawings for the Work consist of Exhibits in these Specifications for the Reclamite Project. Said drawings are hereby referred to and made a part of these contract documents.

3.3 Proposals

Bids shall be sealed in an envelope addressed to the City Council of the City of Lemoore and marked:

Proposal for:
2014 Reclamite Project

Bids shall be delivered to the location designated in the *Notice Inviting Sealed Proposals (Bids)*:

Lemoore City Hall
119 Fox Street
Lemoore, California 93245

SECTION 4 TIME FOR COMPLETION & FORFEITURE DUE TO DELAY

CONTRACTOR shall begin work within ten (10) consecutive calendar days after execution of the contract by OWNER and receipt of the *Notice to Proceed* from OWNER, and shall complete on or before the expiration of thirty (30) consecutive calendar days after the Notice to Proceed.

Upon receiving the "**NOTICE TO PROCEED**", the successful bidder has **TEN (10) DAYS to COMMENCE CONSTRUCTION**. The contractor shall pay to the City, as liquidated damages, the amount of \$1,000.00 for each calendar day that the commencement of construction is delayed beyond the **TEN (10) DAY PERIOD**.

Pursuant to Government Code 53069.85, CONTRACTOR agrees to forfeit and pay OWNER the following amount, which shall be deducted from any payments due or to become due CONTRACTOR, for each and every day completion of the work is delayed beyond time allowed: \$1,000 per day.

SECTION 5 CONSTRUCTION REVIEW

ENGINEER or OWNER’s agent shall at all times have access to the work during construction, and shall be furnished with every reasonable facility for acquiring full knowledge respecting the progress, workmanship, and character of the materials used and employed in the work.

Whenever CONTRACTOR varies the period during which work is performed, he shall give due notice (at least 24 hours) to ENGINEER or OWNER’S REPRESENTATIVE, so that proper construction review may be provided. Any work done in the absence of ENGINEER or OWNER’S REPRESENTATIVE will be subject to rejection.

The review of the work shall not relieve CONTRACTOR of any obligation to fulfill the Contract as prescribed. Defective work shall be made good, and unsuitable materials may be rejected notwithstanding the fact that such defective work and unsuitable materials have been previously overlooked by ENGINEER and accepted or included in a progress payment estimate.

SECTION 6 OVERTIME CONSTRUCTION REVIEW AND STAKING

If construction review services will be required by CONTRACTOR when the contract time has expired, the following charges will be levied against CONTRACTOR:

CONSTRUCTION REVIEW PERSONNEL	
Regular Working Hours, including travel time from Engineer’s office in Visalia, California	\$148.00 per hour

Should CONTRACTOR fail to complete the required work on the project within the number of calendar days set forth herein, he shall reimburse OWNER for additional construction review time at the rates set forth in this section.

SECTION 7 CONTRACTOR'S RESPONSIBILITIES

Until the formal acceptance of the work by ENGINEER, CONTRACTOR shall have the charge and care thereof and shall bear the risk of injury or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or non-execution of the work. CONTRACTOR shall rebuild, repair, restore, and make good on all injuries or damages to any portion of the work occasioned by any or all causes before final acceptance and shall bear the expenses thereof.

Where underground and surface structures are shown on the plans, the locations, depths, and dimensions of such structures are believed to be reasonably correct but are not guaranteed. Such structures are shown for the information and convenience of CONTRACTOR, but such information so given shall not be construed as a representation that such structures will, in all cases, be found or encountered just where shown, or that they represent all the structures which may be encountered. It shall be CONTRACTOR's responsibility to locate and protect or remove all structures as required.

SECTION 8 SAFETY

In accordance with generally accepted construction practices, CONTRACTOR shall be solely and completely responsible for conditions of the job site, including safety of all persons and property during performance of the Work, and CONTRACTOR shall fully comply with all state, federal, and other laws, rules, regulations, and orders relating to safety of the public and workers.

The right of ENGINEER or OWNER's Representative to conduct construction review or observation of CONTRACTOR's performance will not include review of the adequacy of CONTRACTOR's safety measures in, on, or near the construction site.

SECTION 9 REGIONAL NOTIFICATION CENTER CONTRACT

CONTRACTOR shall, except in an emergency as defined below, contact the appropriate regional notification center (Underground Service Alert 800-227-2600) at least two full days prior to commencing any excavation if the excavation will be conducted in an area or on a private easement which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities which may be owned or operated by OWNER, and obtain any inquiry identification number from that notification center. No excavation shall be commenced and carried out by CONTRACTOR unless such an inquiry number has been assigned to CONTRACTOR or any subcontractor of CONTRACTOR, and ENGINEER has been given the identification number by CONTRACTOR in writing.

Emergency shall be defined as sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of or damage to life, health, property, or essential public service. *Emergency* includes such occurrences as riot, accident, or sabotage (Government Code Section 4216). *Subsurface installation* means any underground pipeline, conduit, duct, wire, or other structure operated or maintained in or across a public street or public right-of-way (Government Code Section 4216).

SECTION 10 CONTRACTOR'S LIABILITY INSURANCE

CONTRACTOR shall indemnify, save, keep, and hold harmless OWNER, ENGINEER, and each of their respective officers, agents, and employees against any and all claims, demands, causes of action, damages (including damages to OWNER's property), costs, or liabilities (including cost of liabilities of OWNER's employees), in law or equity, of every kind or nature whatsoever, directly or proximately caused by the performance of the contract, whether such performance is by CONTRACTOR, his subcontractor, or anyone directly or indirectly employed by him. CONTRACTOR shall, at his sole risk and expense, defend any and all suits, actions, or other legal proceedings which may be brought or instituted by third parties against OWNER, ENGINEER, and of their officers or employees on any such claim, demand, or other legal proceedings. OWNER will not be liable for any accident, loss, or damage to the work prior to its completion and acceptance.

CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONTRACTOR, his agents, representatives, employees, or subcontractors. The cost of such insurance shall be included in CONTRACTOR's bid.

10.1 Minimum Scope of Insurance

Coverage shall be at least as broad as:

- 10.1.1 Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office commercial General Liability coverage ("occurrence" form CG0001).
- 10.1.2 Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, Code 1 "any auto," and endorsement CA 0025.
- 10.1.3 Worker's Compensation as required by the Labor Code of the State of California, and Employer's Liability Insurance.

10.2 Minimum Limits of Insurance

CONTRACTOR shall maintain limits no less than:

- 10.2.1 General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- 10.2.2 Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.

10.2.3 Worker's Compensation and Employer's Liability: Worker's Compensation limits as required by the Labor Code of the State of California and Employer's Liability limits of \$1,000,000 per accident.

10.3 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by OWNER and ENGINEER. At the option of OWNER and ENGINEER, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects OWNER, ENGINEER, and each of their officers, officials, employees, and volunteers; or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigation, claim administration, and defense expenses.

10.4 Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

10.4.1 General Liability and Automobile Coverage

- (a) OWNER, ENGINEER, and each of their officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of CONTRACTOR; products and completed operations of CONTRACTOR; premises owned, leased, or used by CONTRACTOR; or automobiles owned, leased, hired, or borrowed by CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to OWNER, ENGINEER, and each of their officers, officials, employees, or volunteers.
- (b) CONTRACTOR's insurance coverage shall be primary insurance as respects OWNER, ENGINEER, and each of their officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by OWNER, ENGINEER, and each of their officers, officials, employees, or volunteers shall be excess of CONTRACTOR's insurance and shall not contribute with it.
- (c) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to OWNER, ENGINEER, and each of their officers, officials, employees, or volunteers.
- (d) CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

10.4.2 Worker's Compensation and Employer's Liability Coverages

The insurer shall agree to waive all rights of subrogation against OWNER, ENGINEER, and each of their officers, officials, employees, and volunteers for losses arising from work performed by CONTRACTOR for OWNER.

10.4.3 All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, revoked, voided, canceled by either party, or reduced in coverage or in limits except after thirty (30) days' prior written notice by **Certified Mail Return Receipt Requested**, has been given to OWNER and ENGINEER.

10.5 Acceptability of Insurers

Insurance shall be placed with insurers with a Best's rating of no less than A:VII.

10.6 Verification of Coverage

CONTRACTOR shall furnish OWNER with certificates of insurance and with original endorsements effecting coverage required by this section. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by OWNER (see the end of the *Bid Conditions* section of these documents). Where, by statute, OWNER's Workers' Compensation-related forms cannot be used, equivalent forms approved by the Insurance Commissioner are to be substituted. All certificates and endorsements are to be received and approved by OWNER before work commences. OWNER reserves the right to require complete, certified copies of all required insurance policies, at any time.

10.7 Subcontractors

CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

SECTION 11 ASSIGNMENT OF CONTRACT

CONTRACTOR shall not assign this contract, or any part thereof, without the approval of OWNER, nor without the consent of Surety unless said Surety has waived its rights to notification of assignment. All assignments of funds are subject to the prior lien for services rendered or materials supplied for the performance of the work called for in favor of all persons, firms, or corporations rendering such services or supplying materials.

SECTION 12 GUARANTEE

CONTRACTOR shall guarantee the project against all damage due to faulty materials and workmanship provided or performed by CONTRACTOR. This guarantee shall remain in effect for a period of one year following the date of final acceptance of the project by OWNER.

SECTION 13 RETENTION OF PAYMENTS AND/OR SUBSTITUTION OF SECURITIES

13.1 Progress Payments

When a progress payment is due CONTRACTOR shall submit an estimate in writing of the total amount of work done and the acceptable materials furnished and delivered by CONTRACTOR to the time of such estimate and the value thereof. OWNER will review the estimate and make necessary corrections thereto as a basis for approval. OWNER shall retain five percent (5%) of the approved value of the work completed.

13.2 Final Payment

ENGINEER shall, after the completion of the contract, make a final estimate of the amount of work done thereunder, and the value of such work. The final payment (the retained 5%) shall not be due and payable until the expiration of thirty-five (35) days from the date of filing the *Notice of Completion*. The final payment shall not be made until OWNER has been provided with certification of releases from any and all liens associated with the project.

13.3 Substitution of Securities

Notice is hereby given that for any moneys earned by CONTRACTOR and withheld by OWNER to insure performance of the contract, CONTRACTOR may, at his request and expense, substitute securities equivalent in the form and manner and subject to the conditions provided in Public Contract Code § 10263 and 22300.

SECTION 14 PERSONAL LIABILITY

No director, officer, employee, or agent of OWNER, ENGINEER, or their consultants shall be personally responsible for any liability arising under or by virtue of the contract.

SECTION 15 PAYMENT OF PREVAILING WAGES & CERTIFIED PAYROLLS

The City of Lemoore is a charter city and has passed City Ordinance 2000-07, exempting the payments of (State) prevailing wages on City projects.

SECTION 16 OTHER BASIC REQUIREMENTS

All work embraced herein shall be accomplished in accordance with the applicable portions of the State of California, Department of Transportation (Caltrans) *Standard Specifications* (May, 2006 edition), except as modified by the *Bid Conditions*, the *General Conditions*, these *Supplementary Conditions*, the *Special Provisions*, *City Standards*, and the project plans. In case of conflicting requirements, the precedence of the Contract Documents shall be in descending order as follows:

1. Special Provisions Part II – Construction Details
2. Special Provisions Part I – Supplementary Conditions

3. Project Plans
4. General Conditions
5. City of Lemoore Standard Specifications for Public Works Improvements (Current Edition)
6. Caltrans Standard Specifications (May 2006 Edition)
7. Other Standards

Payment provisions of referenced *Caltrans Standard Specifications*, or any other referenced specifications, do not apply.

The CONTRACTOR shall comply with the wastewater discharge requirements of the California Regional Water Quality Board, Central Valley Region, Board Order No. 93-230 as applicable.

Whenever reference is made to a standard, code, specification, or test, it shall mean the latest revision of such standard, code, specification, or test adopted by the initial issuing agency or organization and in effect 30 days prior to the date of *Notice Inviting Sealed Proposals (Bids)*.

SECTION 17 INCREASED OR DECREASED QUANTITIES

The phrase “differs materially and significantly” as used in the *General Conditions*, Section 11.9.3, to refer to increases or decreases in quantities of Unit Price Work, shall be defined as a quantity increase or decrease of 25.0% from the contract amount. The procedure outlined in the *Caltrans Standard Specifications*, Section 4-1.03B will be used as a guide only in determining any changes in the contract amount which may arise from increases or decreases of more than 25.0% in the contract amount of any item.

**SPECIAL PROVISIONS PART II
CONSTRUCTION DETAILS**

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CONSTRUCTION DETAILS**

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SPECIAL PROVISIONS – PART II CONSTRUCTION DETAILS

SECTION 100 GENERAL REQUIREMENTS

100.01 GENERAL DESCRIPTION OF THE WORK

The work to be completed under this contract consists of furnishing all labor, materials, tools, equipment, transportation, supplies, and incidentals for performing all the work involved in the 2014 Reclamite Seal Project in the City of Lemoore, in accordance with Plans (Exhibits) and Specifications.

- **Total Bid – Item No. 1: Mobilization**
This lump sum price shall be full compensation for the movement of personnel, equipment, supplies, and incidentals to and from the work sites, and as indicated in Section 200 of these Special Provisions and shall include permits as indicated in Section 300 of these Special Provisions.

- **Total Bid – Item No. 2: Provide, and Remove, all Temporary Signage and Traffic Control**
This lump sum price shall be full compensation, in accordance with Section 400 of these Special Provisions and the Plans (Exhibits).

- **Total Bid – Item No. 3: Apply Reclamite Seal Coat; Street Sweeping, Distribution, Sand Spreading, and Sand Sweeping**
This lump sum price shall be full compensation, in accordance with Section 500 of these Special Provisions and the Plans (Exhibits).

- **Total Bid – Item No. 4: Replace All Existing Striping Reflectors and Pavement Legends Except as Noted In These Specifications**
This lump sum price shall be full compensation, in accordance with Section 600 of these Special Provisions and the Plans (Exhibits).

100.03 PRECONSTRUCTION CONFERENCE

Contractor shall contact Quad Knopf at (559) 733-0440 to arrange for conference date and time. Conference shall occur no later than 10 days after the Award of Contract. (The Contractor shall maintain contact with Quad Knopf regarding the status of contract award). Conference will be held at the City of Lemoore City Hall for the purpose of reviewing the construction program with the Contractor, and onsite as required. At this conference a preliminary construction schedule, traffic control plan, proposed sequence of work, public agency and property owner notification procedures, and construction procedures shall be discussed by the Contractor. The Contractor's superintendent for this project shall be present and shall have reviewed the contract documents and be prepared to discuss the work.

100.04 LOCATION OF WORK

The project sites are located in the City of Lemoore, Kings County, California. The specific site locations are shown on the Exhibits (Plans).

100.05 QUALIFICATIONS OF THE CONTRACTOR

Contractor, in order to qualify for award of contract, shall have been engaged in the construction of Reclamite or asphaltic emulsion fog seal coat street projects similar to that specified herein. Concurrently with submittal of the proposal, Contractor shall submit to the City the length of time during which he has been engaged in this type of work, and names and phone numbers of up to five public agencies for whom he has completed such projects.

Contractor shall ensure, to the satisfaction of the Engineer, that the personnel assigned are experienced and competent to carry out the proposed construction.

100.06 CONSTRUCTION SCHEDULE AND ORDER OF WORK

Contractor shall submit a construction schedule in conformance with Section 2.6 of the *General Conditions*. This schedule shall indicate job completion within 19 calendar days after the Notice to Proceed. If at any time the average rate of daily progress is applied to the remaining contract time with the result that late completion is indicated, the Owner may order a new schedule to aid in timely completion of the project.

100.07 COOPERATION WITH OTHERS

At all times, Contractor shall extend full cooperation to other contractors and to all others performing work within or adjacent to the project areas, including employees and contractors of owner and all utilities and their employees.

100.08 MATERIALS SUBMITTALS

Contractor shall review, stamp with his approval, and submit for review by Engineer, three copies of materials submittals as required by the *General Conditions*. Unless otherwise noted below, within seven (7) calendar days two copies will be returned to Contractor following review by Engineer. The submittals shall include, but not necessarily be limited to, the following items:

- Traffic Control Plan
- Asphalt Rejuvenating Agent
- Traffic Striping Paint
- Sand

100.09 PROJECT SITE MAINTENANCE

100.09.1 Protection of Existing Improvements

All existing improvements, including fences, curbs, gutters, sidewalks, landscaping, irrigation systems, structures, signs, poles, etc., located adjacent to the work area shall be protected from any damage and preserved in their previously existing conditions throughout the duration of the project. Should any improvements become damaged through the actions of the Contractor, it shall be repaired to its pre-existing condition at no expense to the Owner.

100.09.2 Protection of Existing Utilities

All existing utilities adjacent to the work area shall be protected from any damage and preserved in their previously existing condition throughout the duration of the project. Any damage to these lines shall be repaired to the satisfaction of the respective utility company and at no additional expense to the owner.

100.09.3 Cleanup and Dust Control

Throughout all phases of construction, including suspension of work, and until final acceptance of the project, Contractor shall keep the work site clean and free of rubbish and debris.

Materials and equipment shall be removed from the site as soon as they are no longer necessary. Upon completion of the work and before final inspections, the entire worksite shall be cleared of equipment, unused materials, and rubbish so as to present a satisfactory, clean, and neat appearance. All cleanup costs shall be absorbed on contractor's bid.

100.09.4 Sanitation

Contractor shall provide and maintain enclosed toilets at a location or locations accessible to and for the use of employees engaged in the work. These facilities shall be maintained in a neat, sanitary condition. They shall comply with all applicable laws, ordinances, and regulations regarding public health and sanitation.

100.10 WATER FOR CONSTRUCTION

The use of water for any construction purpose shall conform to the provisions of Sections 17-1.02 and 17-1.025 of the *Caltrans Standard Specifications* and these *Special Provisions*. Potable water for construction will be provided by the City of Lemoore from existing City facilities. There will be no charge for such usage. Contractor shall make all arrangements to transport water and shall, at his own expense, provide facilities for conveying water from a fire hydrant to the point of use. Full compensation for developing and applying water shall be included in the various other items of work, and no additional compensation will be made therefore.

100.11 TESTING DURING CONSTRUCTION

Initial tests of materials will be performed at no expense to the Contractor. However, the cost of all retesting required due to failure of the material or workmanship to meet specifications will be deducted from the money due or that may become due Contractor under contract.

100.12 CERTIFICATES OF COMPLIANCE

Contractor shall furnish certificates of compliance for all materials furnished (i.e. that they comply with the Plans (Exhibits) and Specifications, and with previously approved samples and submittals).

100.13 STANDARD SPECIFICATIONS AND DRAWINGS

City of Lemoore Standard Specifications shall mean the October 2003 edition of the *City of Lemoore Standard Specifications for Public Works Improvements*, copies of which may be obtained at the City of Lemoore Department of Public Works. Cost is \$40.00 plus applicable sales tax. *Standard Drawings* shall mean the City of Lemoore Standard Drawings, a part of the October 2003 edition of the *City of Lemoore Standard Specifications for Public Works Improvements*. Standard Specifications shall mean "State of California, Department of Transportation Standard Specifications" (May 2006) edition. The *Standard Specifications* and *Standard Drawings* are available for inspection and purchase at the Lemoore City Hall and the offices of Quad Knopf, Inc., at 5110 West Cypress Avenue, Visalia.

100.14 CONTRACTOR'S INVESTIGATION OF JOBSITE

It is the Contractor's responsibility to inspect the jobsite and familiarize himself with all conditions which may affect the work described herein whether or not such conditions are correctly represented or shown on the drawings. Contractor shall take all such conditions into account in the preparation of his bid and shall provide Owner with a complete, satisfactory project as specified. Submission of a bid shall indicate the contractor's evidence of jobsite inspections and familiarization with conditions.

100.15 STORAGE OF SUPPLIES, MATERIALS, EQUIPMENT, ETC.

The Contractor shall obtain the prior approval of the City of Lemoore (City) for any area or space required for Contractor's storage during construction operations. Materials, equipment, etc., shall not be piled or stored in any location which shall interfere with the conduct of normal City functions and shall not constitute a hazard to persons or property. Any required safety precautions such as signs, danger signals, lanterns, barricades, etc., shall be installed by the Contractor during construction operations.

100.16 SIGNS

No advertising signs of any kind will be permitted except by written permission of the City.

100.17 FIELD OFFICE

A field office as such is not required.

100.18 TEMPORARY SERVICES

100.18.1 Fences, Barricades, Warning Signs, and Lights

- A. To conform to CAL-OSHA regulations, other State of California and local codes, rules, regulations, and ordinances for protection of workers, public and private property, provide, install and maintain barricades, warning devices and other protection required therefor.
- B. Provide temporary fencing, etc., as required to protect stored materials, equipment and miscellaneous items from theft, vandalism and unauthorized access.

100.18.2 Contractor's Access, Work and Storage Areas

- A. Contractor to be limited to area shown on drawings, or as directed by the City.
- B. Delivery to and removal from the work area of equipment and materials shall be the responsibility of the Contractor.

100.18.3 Telephone

- A. Contractor shall provide cellular telephone service to the site at all times when contract work is being performed. Contractor shall arrange for such telephone service and provide the City with the telephone number.

100.18.4 Field Toilets

- A. The Contractor shall furnish, install, and remove at the completion of the job, all sanitary; i.e., portable toilet facilities required for the completion of the job. The type and location of the facilities shall be subject to acceptance by the City.
- B. All sanitary facilities shall be made available for use by all workers, subcontractors, consultants, and City personnel associated with the project.
- C. The Contractor shall maintain the sanitary facilities in a proper, safe, and sanitary condition for the duration of the work. Facilities shall be provided in sufficient quantities to comply with CAL-OSHA regulations.
- D. Existing facilities shall not be used by Contractor's employees or subcontractors.

100.18.5 Water

- A. The City will supply water for the construction sites: see Section 100.10 for details.

- B. The Contractor shall not use any of the water supplied by the City for any purpose other than that designated for the project. Water is and will be available near the sites under certain constraints, and will be identified by the City during the pre-construction meeting.

100.18.6. Noise Control

- A. It is the Contractor's responsibility to meet all ordinances regarding noise and noise control.
- B. Maximum acceptable noise level, in dB, 100 feet from site shall be 65. Upon the request of the City, the Contractor shall make available a decibel meter and a qualified operator to measure and verify the specified noise tolerances.

100.19 SPECIAL SECURITY REQUIREMENTS

The Contractor's workers and equipment shall be limited to the work areas as designated by this contract, or as directed by the City.

100.20 DISPOSITION OF EQUIPMENT AND MATERIALS

All waste sand from this work shall be removed from the site and disposed of a legal location or locations by the Contractor at the Contractor's expense.

100.21 DEFINITIONS

- (1) Engineer: Harry A. Tow, P.E.
Quad Knopf, Inc.
P.O. Box 3699
Visalia, CA 93278
(559) 733-0440

- (2) Owner representative:

This contract document has been written to provide one (1) Owner representative for the Contractor to officially correspond with in respect to contract administration; that being the Engineer. The Engineer listed above will have full access to the jobsite.

100.22 MEASUREMENT AND PAYMENT

Payment for the various items shall be based on the contract lump sum for each item and shall be compensation in full for furnishing of all overhead, labor, materials, tools, equipment, and appurtenances necessary to complete the work in accordance with the requirements of the Contract Document. No additional payment will be made for work incidental to each item unless specifically noted or otherwise specified.

SECTION 200 MOBILIZATION

200.01 GENERAL

Preparatory Work: Mobilization conforming to Section 11 of the Standard Specifications shall consist of preparatory work and operations, including, but not limited to, those necessary for the movement of personnel, equipment, supplies, and incidentals to the project site; for the establishment of offices, buildings, secured equipment and materials storage areas, demobilizations and other facilities necessary for work on the project; and for all other work and operations which must be performed or costs incurred prior to beginning work on the various contract items on the project site.

200.02 RELATED INFORMATION

The following documents contain information and requirements relating to this item, except as modified herein:

Caltrans Standard Specifications, Section 11

200.03 MEASUREMENT AND PAYMENT

Mobilization: Payments for mobilization shall be in compliance with Section 11-1.02 "Payment" of the Standard Specifications except that no payment for mobilization, partial or otherwise, shall be made until the Contractor has secured all necessary permits, bonds and licenses and has paid all applicable fees.

The Contract lump sum price paid for Mobilization shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in mobilization as specified herein. **The lump sum bid for this item shall not exceed five percent (5%) of the total bid price.**

SECTION 300 PERMITS

The job site is located within Kings County and the City of Lemoore. A City of Lemoore business license, which may be obtained at City Hall, is required.

All work embraced herein shall be accomplished in accordance with all applicable Standards, Codes, Regulations, or Specifications issued by any governmental agency having jurisdiction over the work in progress. Contractor shall prepare and deliver to the proper agency any report or record which may be required in connection with the project, and obtain any permits which may be required.

Payments for obtaining permits shall be included in the item for Mobilization and shall include full compensation for all labor, materials, equipment, tools, and incidentals required to complete the work as specified herein.

SECTION 400 MAINTENANCE AND CONTROL OF TRAFFIC

400.01 GENERAL

All traffic control devices and sufficient personnel shall be provided to maintain a safe and orderly flow of traffic around the construction operation.

400.02 RELATED INFORMATION

The following documents contain information and requirements relating to this item, except as modified herein:

City of Lemoore Standard Specifications for Maintenance of Traffic and Detours

Caltrans Manual of Warning Signs, Lights, and Devices for Use in Performance of Work upon Highways

400.03 MATERIALS AND METHODS

Traffic control devices shall conform to the State of California Department of Transportation (Caltrans) *Manual of Warning Signs, Lights, and Devices for Use in Performance of Work upon Highways*, latest revision. Maintenance and control of traffic shall conform to the *Standard Specifications for Maintenance of Traffic and Detours*, the traffic control requirements of Section 37 of said *Standard Specifications*, and to the City's *Standard Specifications for traffic control* as appended hereto. The Contractor shall submit a traffic control plan to the City for approval prior to the initiation of reclamite operations (see 400.05). Contractor shall provide traffic control devices and flagger personnel sufficient to maintain a safe and orderly flow of traffic around the construction operation.

400.04 PARKING & NOTIFICATIONS

Advanced Public Notification

Three days prior to beginning Reclamite seal work in an area, the City will deliver a written notice to all adjacent residents and businesses and tenants. Copies of notices will be posted by the Contractor on the NO PARKING signs when they are erected or posted.

Notices for Reclamite seal work will include the following: a general description of the Reclamite seal process, problems associated with the staining of material by the asphalt, the date and approximate time that a particular street is to receive this treatment and a list of other streets included for that day, expected traffic delays, no parking requirements on the street, the possibility of towed cars, and the name, address and phone number of the Contractor's superintendent and the City Public Facilities Department.

The Contractor will be responsible for posting "No Parking" signs, with date and time of work at least 24 hours in advance of construction. Any required removal of parked cars shall be coordinated through the Public Facilities Department and the City Police Department. Towing fees will be paid by the City. The "No Parking" signs shall be removed within 24 hours of the

completion of the Reclamite. All signs to be provided by the Contractor shall be approved by the Engineer before they are delivered and installed by the Contractor.

The City will be responsible for all noticing of residents. Notices will include Contractor-City approved dates for the work.

The Reclamite seal work shall not occur on waste pickup days. It is the contractor's responsibility to coordinate with the City in this regard.

The notice will inform all residents not to leave waste containers on the street until the scheduled pick-up day. If waste containers are left on the streets, it shall be the Contractor's responsibility to remove or arrange for proper removal of the containers at no additional cost to the City. Likewise, if the City must return for pick-up due to unscheduled Contractor activity, any additional charges shall be the responsibility of the Contractor.

The City will also notify the following:

- KCart
- U.S. Postal Service
- Emergency Services
- School Districts

400.05 TRAFFIC CONTROL

The Contractor shall be responsible for:

- The Contractor shall submit, for City approval, at the pre-construction meeting a traffic control plan for the work.

The plan shall incorporate:

- (a) The proposed schedule, including times-of-day, for Reclamite distribution, sanding, and sweeping to maintain maximum access to adjacent properties for all streets.
- (b) The proposed schedule, including times-of-day, for Reclamite distribution, sanding and sweeping.

The timing of work for these streets, and the maintenance of half-street access for all streets as required to accommodate through street traffic flows and business and commercial access during business hours, shall be scheduled and provided to the City's satisfaction.

- Provision of written notice each work day to the City's Project Representative of the access, egress, and traffic diversions proposed for the following work day, to allow traffic control provisions to be timely discussed and to provide timely notification to the police and fire departments, Postal Service and KCart.

- The Contractor shall place proper detour signs, barricades, flagmen, cones, and other warning devices prior to the work each day and shall promptly remove them when the work has been completed.
- In addition to and in modification of Section 37 of the Standard Specifications, requirements, the following traffic controls are required. These additional requirements in no way relieve the Contractor from its obligation to comply with the other standards set forth in Section 37. ROAD CONSTRUCTION AHEAD (type C-18) signs shall be placed on all public road approaches to any project site before any work commences on the sites. C-6 LOOSE GRAVEL signs shall be used on all streets receiving the seal. W-6 (15 MPH) signs shall be used on all streets receiving the seal. These signs shall be maintained for the duration of construction, including sweeping, and shall be removed once construction and sweeping are complete.
- LOOSE GRAVEL (C-6) signs shall be furnished and placed adjacent to both sides of the traveled way on each block. Additional signs shall be placed at a maximum of 500-foot intervals and at public roads entering the seal coat area. The C-6 signs shall be maintained in place at each site until final brooming of the surface at that site is performed. C-6 signs shall conform to the requirements for construction area signs in Section 12, “Construction Area Traffic Control Devices,” of the Standard Specifications.
- Maintain at least half street through access at all times on all streets (except cul-de-sacs 300 feet or less in length) including all streets providing sole access to abutting properties.
- Provide flagmen, signs or lights, as required, to assure that damage does not occur to fresh seal coat or traffic markings.
- Take all feasible steps to minimize project impacts upon traffic flows, access and egress while protecting workers and work in progress.
- Respond promptly and effectively to any traffic safety, access and egress concerns expressed by the Engineer or the City’s Representative and by local public safety (police and fire) personnel.
- The Contractor shall be totally responsible for traffic control. Failure or refusal to construct and maintain detours and controls at the proper time shall be sufficient cause for closing down the work until such detours and controls are in satisfactory condition for safe use by the public.

400.06 MEASUREMENT AND PAYMENT

Payment for traffic control shall be included in the lump sum contract price bid item for Maintenance and Traffic Control, and shall be compensation in full for furnishing all overhead, labor, materials, tools, equipment, and appurtenances necessary to complete the work in accordance with the requirements of the contract documents. No additional payment will be made for work incidental to each item unless specifically noted.

SECTION 500 ASPHALT REJUVENATING AGENT

500.01 GENERAL

500.01.1. Description of the Work

This work shall consist of furnishing all labor, material, and equipment necessary to perform all operations for the application of an asphalt rejuvenating agent to asphaltic concrete surface courses. The rejuvenation of surface courses shall be by spray application of the contract-specified cationic rejuvenating agent composed of petroleum oils and resins emulsified with water. All work shall be in accordance with the specifications, the applicable drawings, and subject to the terms and conditions of this contract.

500.02 MATERIALS AND METHODS

500.02.1. Materials

The asphalt rejuvenating agent shall be Reclamite, an emulsion composed of a petroleum resin oil base uniformly emulsified with water. Each bidder must submit with his bid a certified statement from the asphalt rejuvenator manufacturer showing that the asphalt rejuvenating emulsion conforms to the required physical and chemical requirements. No substitution for the specified asphalt rejuvenation agent will be accepted after bid opening.

SPECIFICATIONS

Tests	Test Method		Requirements	
	ASTM	AASHTO	Min.	Max.
Tests on Emulsion:				
Viscosity @ 25°C, SFS	D-244	T-59	15	40
Residue, % W ¹	D-244(Mod.)	T-59(Mod)	60	65
Miscibility Test ²	D-244(Mod.)	T-59(Mod)	No Coagulation	
Sieve Test, %W ³	D-244(Mod.)	T-59(Mod)	-	0.1
Particle Charge Test	D-244	T-59	Positive	
Percent Light Transmittance ⁴	GB	GB	-	30
Tests on Residue from Distillation:				
Flash Point, COC, °C	D-92	T-48	196	-
Viscosity @ 60°C, cSt	D-445	-	100	200
Asphaltenes, % w	D-2006-70	-	-	1.00
Maltene Dist. Ratio	D-2006-70	-	0.3	0.6
$\frac{PC + A_1^5}{S + A_2}$				
PC/S Ratio ⁵	D-2006-70	-	0.5	-
Saturated Hydrocarbons, S ⁵	D-2006-70	-	21	28

¹ ASTM D-244 Modified Evaporation Test for percent of residue is made by heating 50 gram sample to 149 C (300 F) until foaming ceases, then cool immediately and calculate results.

² Test procedure identical with ASTM D-244-60 except that .02 Normal Calcium Chloride solution shall be used in place of distilled water.

³ Test procedure identical with ASTM D-244 except that distilled water shall be used in place of two percent sodium oleate solution.

⁴ Test procedure is attached.

⁵ Chemical composition by ASTM Method D-2006-70:

PC = Polar Compounds, A₁ = First Acidaffins

A₂ = Second Acidaffins, S = Saturated Hydrocarbons

500.02.2. Material Performance

The rejuvenating agent shall have a record of at least five years of satisfactory service as an asphalt rejuvenating agent and in-depth sealer. Satisfactory service shall be based on the capability of the material to decrease the viscosity and increase the penetration value of the asphalt binder as follows. The viscosity shall be reduced by a minimum of 45 percent and the penetration value shall be increased by a minimum of 25 percent. Testing shall be performed on extracted asphalt cement from a pavement to a depth of three eighths inch (3/8"). In addition, the pavement shall be in-depth sealed to the intrusion of air and water.

The bidder must submit with his bid the manufacturer's certification that the material proposed for use is in compliance with the specification requirements. The bidder must submit with his bid previous use documentation and test data conclusively demonstrating that; the rejuvenating agent has been used successfully for a period of five years by government agencies such as cities and counties; and that the asphalt rejuvenating agent has been proven to perform, as heretofore required, through field testing by government agencies as to the required change in asphalt binder viscosity and penetration number. Testing data shall be submitted indicating such product performance on a sufficient number of projects, each being tested for a minimum period of three years to insure reasonable longevity of the treatment, as well as product consistency.

RECLAMITE®, manufactured by Tricor Refining, LLC. is a product of known quality and accepted performance.

500.02.3. Applicator Experience

The asphalt-rejuvenating agent shall be applied by an experienced applicator of such material. The bidder shall have a minimum of three years experience in applying the product proposed for use or other asphaltic emulsion fog seal or asphalt rejuvenator. He must submit with his bid a list of five projects on that he applied said rejuvenator. He shall indicate the project dates, number of square yards treated in each and the name and phone number of the government official in charge of each project.

A project superintendent knowledgeable and experienced in application of the specified asphalt-rejuvenating agent must be in control of each day's work. The bidder shall submit a written experience outline of the project superintendent.

There will be no exceptions to or variances from these provisions.

500.02.4. Product Standards and Alternates

The product "Reclamite"®, as manufactured by Tricor Refining, LLC. for the asphalt rejuvenating agent is the standard for these specifications and the prices quoted on the Bid Sheet Base Bid shall be for this standard, or approved equal.

Bidders may offer before bid opening an approved equal for the Standard specified in the Specifications provided the bidder adheres to the following:

- A. Furnishes complete specifications and descriptive literature for the approved equal. Such descriptive and detailed information shall be complete and at least equal in detail to the city's requirements for the specified item for which the alternate is offered.
- B. Submits a current Material Safety Data Sheet for the alternate materials. The City will give the alternate consideration. The Contractor may furnish only those alternate items included in his proposal and approved by the City prior to bid submittal.

500.03 EXECUTION

500.03.1. Application Temperature/Weather Limitations

The temperature of the asphalt rejuvenating emulsion, at the time of application shall be as recommended by the manufacturer. The asphalt-rejuvenating agent shall be applied only when the existing surface to be treated is thoroughly dry and when it is not threatening to rain. The asphalt-rejuvenating agent shall not be applied when the ambient temperature is below 40° F.

500.03.2. Handling of Asphalt Rejuvenating Agent

Asphalt rejuvenating agent contents in project site tank cars or storage tanks shall be circulated at least forty-five minutes before withdrawing any material for application. When loading the distributor, the asphalt rejuvenating agent concentrate shall be loaded first and then the required amount of water shall be added. The water shall be added into the distributor with enough force to cause agitation and thorough mixing of the two materials. To prevent foaming, the discharge end of the water hose or pipe shall be kept below the surface of the material in the distributor that shall be used as a spreader. The distributor truck will be cleaned of all other asphalt materials, and washed out to the extent that no discoloration of the emulsion may be perceptible. Cleanliness of the spreading equipment shall be subject to the approval and satisfaction of the Engineer.

500.03.3. Applying Equipment

The distributor for spreading the emulsion shall be self-propelled, and shall have pneumatic tires. The distributor shall be designed and equipped to distribute the asphalt rejuvenating agent uniformly on variable widths of surface at a readily determined and controlled rate of 0.08 gallons per square yard of surface, and with an allowable variation from such specified rate not to exceed 5 percent of the specified rate at any one location.

Distributor equipment shall include full circulation spray bars, pump tachometer, volume measuring device and a hand hose attachment suitable for application of the emulsion manually to cover areas inaccessible to the distributor. The distributor shall be equipped to circulate and agitate the emulsion within the tank.

A check of distributor equipment as well as application rate accuracy and uniformity of distribution shall be made when directed by the Engineer.

The truck used for sanding shall be equipped with a spreader that allows the sand to be uniformly distributed onto the pavement. The spreader shall be able to apply 2 pounds of sand per square yard in a single pass. The spreader shall be adjustable so as not to broadcast sand onto driveways or treelawns.

The sand to be used shall be free flowing, without any leaves, dirt, stones, etc. Any wet sand shall be rejected from the job site.

Any equipment that is not maintained in full working order, or is in the sole opinion of the Engineer or the Project Representative, proven inadequate to obtain the results prescribed, shall be repaired or replaced at the direction of the Engineer.

500.03.4. Application of Rejuvenating Agent

The asphalt-rejuvenating agent shall be applied by a distributor truck at the temperature recommended by the manufacturer and at the pressure required for proper distribution. The emulsion shall be so applied that uniform distribution is obtained at all points of the areas to be treated. Areas inadvertently missed shall receive additional treatment by hand sprayer application. Application at intersections shall be by straight-through truck patterns. Remaining surfaces, to fill in curves, shall be treated by hand application.

Application of asphalt rejuvenating agent shall be on one-half width of the pavement at a time. When the second half of the pavement is treated, the distributor nozzle nearest the center of the road shall overlap the previous application by at least one-half the width of the nozzle spray. In any event the centerline construction joint of the pavement shall be treated in both application passes of the distributor truck.

Before spreading, the asphalt rejuvenating agent shall be blended with water at the rate of two (2) parts rejuvenating agent to one (1) part water, by volume. The combined mixture of asphalt rejuvenating agent and water shall be spread at the rate of 0.08 gallons per square yard.

Grades or super-elevations of surfaces that may cause excessive runoff, in the opinion of the Engineer, shall have the required amounts applied in two or more applications as directed.

Where more than one application is to be made, succeeding applications shall be made as soon as penetration of the preceding application has been completed and the Engineer grants approval for additional applications.

Truck spray applicators shall be sized or adjusted to avoid excess application of Reclamite adjacent to gutters to avoid drift or leakage onto gutter surfaces.

After the rejuvenating emulsion has penetrated, a coating of dry sand shall be applied to the surface in sufficient amount to protect the traveling public. Sand gradation shall conform to the requirements of Section 37 of Caltrans Standard Specifications.

Application shall be by hand sprayer at intersection corners or cross gutters as required to prevent surface "misses" and to avoid overspray to concrete surfaces.

The Contractor shall furnish a manufacturer-certified quality inspection report showing the constituency, and the date shipped, for each load of asphalt rejuvenating agent. When directed by the Engineer, the Contractor shall take representative samples of material for testing.

500.03.5. Street Sweeping

The Contractor shall be responsible for sweeping and cleaning of the streets prior to, and after treatment.

Prior to treatment, the street will be cleaned of all standing water, dirt, leaves, foreign materials, etc. This work shall be accomplished by self-propelled street sweeper.

All sand used during the treatment must be removed no less than 24 hours and no more than 48 hours after treatment of the street. This shall be accomplished by mechanical sweeping. All streets must be cleaned of any material to the satisfaction of the Engineer.

If, after sand is swept and in the opinion of the Engineer a hazardous condition exists on the roadway, the contractor must apply additional sand and sweep same no later than 24 hours following sand removal. No additional compensation will be allowed for reapplication and removal of sand.

500.04 MEASUREMENT AND PAYMENT

Asphalt rejuvenating agent will be measured and paid per lump sum amount, and shall include full compensation for all labor, materials, equipment, tools, and incidentals required to complete the work as shown on the Plans.

In order to receive any payment, regardless of the lump sum bid, the Contractor shall furnish with his payment request:

- (a) A certificate from the asphalt emulsion supplier that he has furnished to the jobsite the specified, undiluted emulsion concentrate in the amount necessary to provide the 2:1-diluted application for the project square yardage.**
- (b) A certificate from the contractor that the has received the material described in (a) above and has utilized it only on the project.**

SECTION 600 STRIPING AND PAVEMENT MARKINGS

600.01 PAINTED TRAFFIC STRIPE AND PAVEMENT MARKING

Painted traffic stripes (traffic lines) and pavement markings, including glass beads, shall be applied in conformance with the provisions in Section 84, "Traffic Stripes and Pavement Markings," of the Standard Specifications and these special provisions.

Paint for traffic stripes and pavement markings shall conform to the following State Specifications:

Paint Type	Color	State Specification No.
Waterborne Traffic Line	White, Yellow and Black	PTWB-01

All paint shall be applied in two coats. The second coat shall not be applied until 10 days following the first coat application. There will be no exceptions to this delay period.

Glass beads shall conform to State Specification No. 8010-004 (Type II)

Traffic stripes and pavement markings shall be applied only on dry surfaces and only during periods of favorable weather. Painting shall not be performed when the atmospheric temperature is below 50°F when using waterborne paint; when freshly painted surfaces may become damaged by rain, fog, or condensation; nor when it can be anticipated that the atmospheric temperature will drop below the aforementioned 50°F temperatures during the drying period.

Each coat of paint for any traffic stripe, including glass beads, shall be applied in one pass of the striping machine, regardless of the number, widths and patterns of individual stripes involved.

The use of permanent tape instead of paint will not be permitted.

Unless otherwise directed by the Engineer, glass beads shall be uniformly incorporated in all coats of paint concurrently with the application of the paint, except that glass beads shall not be applied to black paint. Beads shall be embedded in the coat of traffic paint being applied to a depth of one-half their diameters.

Traffic stripes and pavement markings shall be free of runs, drag marks, stretch marks, and debris.

600.02 PAVEMENT MARKERS

The Contractor shall, except as described hereinafter, replace all existing striping and reflective pavement markers.

Pavement markers shall be placed in conformance with the provisions in Section 85, "Pavement Marker," of the Standard Specifications and these special provisions.

The Contractor shall furnish the Engineer certificates of compliance for the pavement markers in conformance with the provisions in Section 6-1.07, "Certificates of Compliance," of the Standard Specifications.

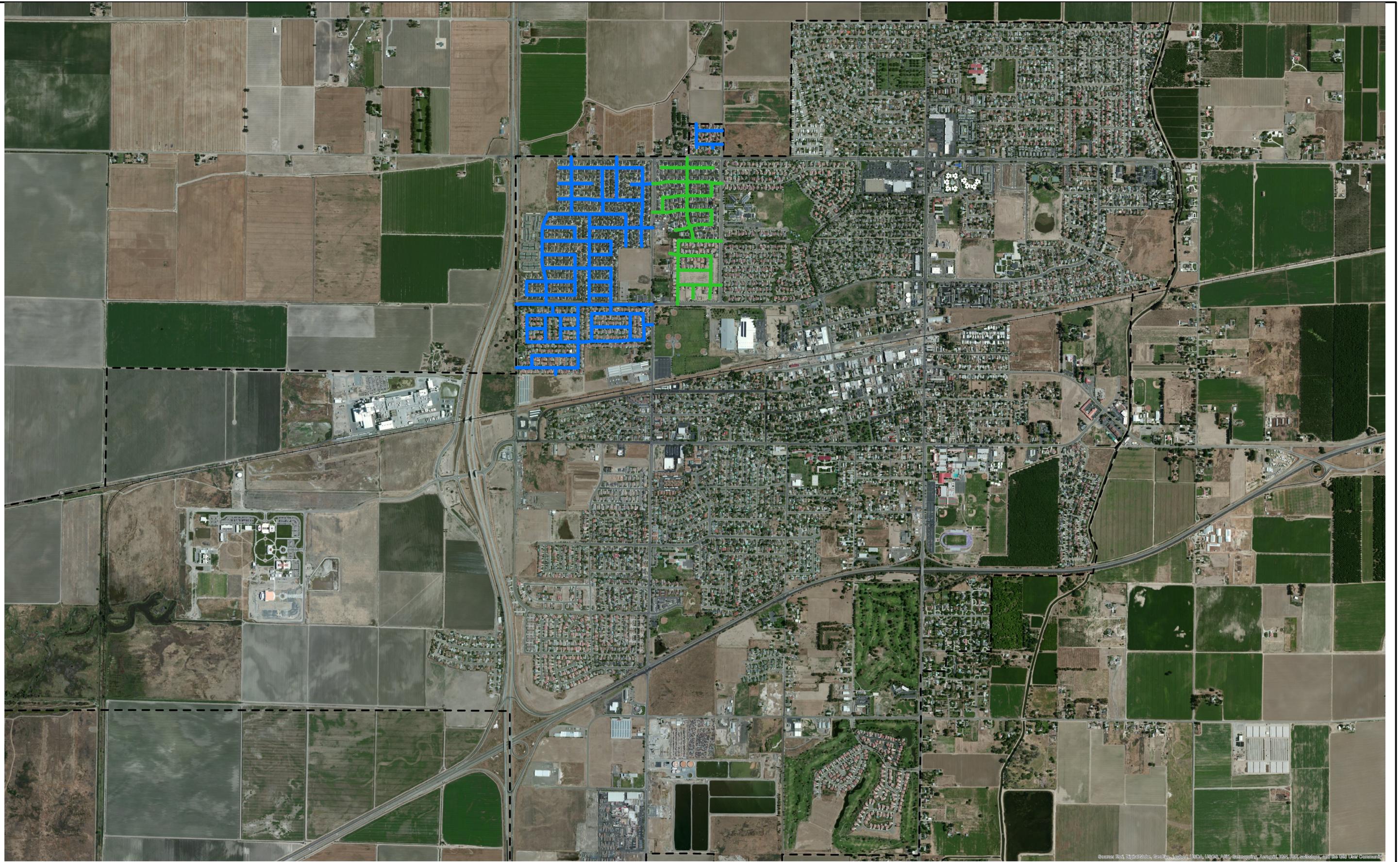
Retroreflective pavement markers shall be marked as abrasion resistant on the body of the markers.

Where striping joins existing striping, as shown on the plans, the Contractor shall begin and end the transition from the existing striping pattern into or from the new striping pattern a sufficient distance to ensure continuity of the striping pattern.

600.04 MEASUREMENT AND PAYMENT

Full payment for all work described in this section will be the bid lump sum.

EXHIBITS



Lemoore Pavement Management
City of Lemoore, CA
2014 Reclamite Project

LEGEND:

- Planned Maintenance Areas/Type**
- PFMD Zone 2
 - Basic Program

Notice: This map contains data described above. This map is preliminary and subject to change. Please use at your own discretion. Quad Knopf disclaims any responsibility from the subsequent use of this preliminary map.



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