

City Hall
80 Broad Street
October 25, 2016
4:30 p.m.

COMMITTEE ON WAYS AND MEANS

1. Invocation – Councilmember Wilson
2. Approval of Minutes:
 - a.) September 27, 2016
 - b.) October 11, 2016
3. Parks: Approval of the receipt and deposit of the 2016 LOWES/KAB Community Partner Grant in the amount of \$4,000 for the Compost Rangers. Program funds will go towards supplies that will create composting cubes at various community gardens and schools. No City match is required.
4. Parks: Approval to submit the 2017 Keep South Carolina Beautiful Palmetto Pride Grant in the requested amount of \$10,000. Program funds will go towards litter prevention education and volunteer cleanup supplies. No City match is required.
5. Public Service: Approval for VacVision Environmental, LLC's proposal in the amount of \$314,675 for pipe repair and rehabilitation at Rebellion Road.
6. Public Service: Approval of an Intergovernmental Agreement for disaster damage assessment and debris removal for the City of Charleston. This is an Intergovernmental Agreement with Berkeley County to allow the county to activate its disaster response contracts and perform services in the City of Charleston. This agreement was executed under the emergency authorization approved by City Council. The City would only be responsible for costs that were not covered by FEMA or the State of South Carolina.
7. Police Department: Approval of a Mutual Aid Agreement between CPD and Department of Homeland Security, National Protection and Programs Directorate, Federal Protective Services to allow Federal Protective Services officers and agents to enforce state and local laws for the protection of Federal property and persons on Federal property and as needed to maintain the public peace and welfare on and in the vicinity of Federal property.
8. Police Department: Approval of a Memorandum of Understanding between CPD and SLED in the amount of \$18,343.40 to upgrade latent fingerprint workstations at CPD.
9. The Committee on Real Estate: (Meeting was held October 25, 2016 at 3:30 p.m., City Hall, 80 Broad Street)

- a. Request authorization for the Mayor to execute the attached Supplemental Lease Agreement between the City of Charleston and the U.S. Coast Guard which is an annual renewal of an existing 10-year lease agreement. The U.S. Coast Guard desires to continue to use a platform area approximately 5'x 5' mounted on top of an 18" diameter steel pile adjacent to the Maritime Center Pier for use as a navigational range light. U.S. Coast Guard also desires to use an optic mounted on a 15' tower bolted to the rear top deck of the Charleston Municipal Aquarium Garage for use as a navigational range light. (TMS: 459-00-00-169; Charleston Maritime Center Pier and Charleston Municipal Aquarium Garage)
- b. Request approval for the Mayor to execute the attached Parking Lease whereby the City leases 322 parking access cards for non-reserved parking to the Medical University of South Carolina (MUSC) in the 99 WestEdge parking garage. [Ordinance]
- c. Consider the following annexations:
 - i.) Magnolia Road and Sycamore Avenue (TMS#418-10-00-005) 0.125 acre, West Ashley (District 9). The property is owned by William G. Niemeyer.

COMMITTEE / COUNCIL AGENDA

3.

TO: John J. Tecklenburg, Mayor
FROM: Amy K. Wharton DEPT. BFRC
SUBJECT: KEEP AMERICA BEAUTIFUL NATIONAL GRANT PROGRAM
REQUEST: To approve receipt and deposit of the 2016 LOWES/KAB Community Partner Grant in the amount of \$4,000 for the Compost Rangers.
Program funds will go towards supplies that will create composting cubes at various community gardens and schools

COMMITTEE OF COUNCIL: W&M DATE: October 25, 2016

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

	Yes	N/A	Signature of Individual Contacted	Attachment
Corporate Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
Cap. Proj. Cmte. Chair	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Director of Parks	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Grants Manager	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>

FUNDING: Was funding previously approved? Yes No N/A

If yes, provide the following: Dept./Div.: _____ Account #: _____

Balance in Account _____ Amount needed for this item _____

Does this document need to be recorded at the RMC's Office? Yes No

NEED: Identify any critical time constraint(s).

CFO's Signature:

FISCAL IMPACT:

No City match required

Mayor's Signature:
John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.

**KEEP AMERICA
BEAUTIFUL**

September 22, 2016

KAB/Lowe's Community Partner Grant Agreement

*Grant Recipient Organization Name: Keep Charleston Beautiful
City, State: Charleston, SC
Grant Amount: \$5000*

Congratulations on receiving a 2016 KAB/Lowe's Community Improvement Grant.

By accepting the terms of this grant, Keep Charleston Beautiful agrees that the funds associated with the grant in the amount of \$4000 will be issued to Keep Charleston Beautiful by Keep America Beautiful and \$1000 in-store credit will be issued by Lowe's. After project completion, a final project wrap-up report must be submitted to Keep America Beautiful by December 15, 2016.

Keep Charleston Beautiful agrees that if a final project wrap-up report is not submitted or the project cannot be completed by December 15, 2016 (except for prior agreements discussed with Keep America Beautiful or mitigating circumstances), they must return grant funds in full back to Keep America Beautiful.

The **project wrap-up report** may be completed here:
<https://www.surveymonkey.com/r/2016loweswrapup>

Project Wrap-up Report includes:

1. Detailed project narrative
2. Metrics
3. Traditional and social media posts, pictures and videos

Signed:

_____ Title: _____ Date: _____

Please fax back to 203.659.3033 or email to gkeegan@kab.org

COMMITTEE / COUNCIL AGENDA

4.

TO: John J. Tecklenburg, Mayor
FROM: Amy K. Wharton DEPT. BFRC
SUBJECT: KEEP AMERICA BEAUTIFUL NATIONAL GRANT PROGRAM
REQUEST: To approve submission of the 2017 Keep South Carolina Beautiful Palmetto Pride Grant in the requested amount of \$10,000.

Program funds will go towards litter prevention education and volunteer cleanup supplies

COMMITTEE OF COUNCIL: W&M DATE: October 25, 2016

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

	Yes	N/A	Signature of Individual Contacted	Attachment
Corporate Counsel	<input type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>	<input type="checkbox"/>
Cap. Proj. Cmte. Chair	<input type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>	<input type="checkbox"/>
Director of Parks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>	<input type="checkbox"/>
Grants Manager	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>	<input type="checkbox"/>

FUNDING: Was funding previously approved? Yes No N/A

If yes, provide the following: Dept./Div.: _____ Account #: _____

Balance in Account _____ Amount needed for this item _____

Does this document need to be recorded at the RMC's Office? Yes No

NEED: Identify any critical time constraint(s).

CFO's Signature: *Amy Wharton*

FISCAL IMPACT:
No City match required

Mayor's Signature: *[Signature]*
John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.



APPLICATION COVER PAGE

PLEASE TYPE OR PRINT ALL INFORMATION

Organization Keep Charleston Beautiful

Contact Person Jamie Gillette

Address 823 Meeting Street

City Charleston, SC County Charleston Zip 29403

Telephone (843) 579-7501 Fax (843) 724-7300

Email gillettej@charleston-sc.gov

I. Type of Activity (please check one)

- Litter Reduction Activity
- Beautification
- Both

II. Amount of Funding Requested \$ 10,000

- New Startup Grant (\$5,000 - population below 15,000)
- New Startup Grant (\$10,000 - population 15,000+)
- Annual Support Grant (Up to \$10,000)

TERMS AND CONDITIONS

Upon submission of this proposal, the applicant will be bound by its contents. In the event Palmetto Pride accepts this proposal, the applicant will fully comply with the terms and conditions detailed below:

1. The organization will maintain a proper accounting system in accordance with generally accepted accounting principles, retain appropriate financial records, and provide supporting documentation of all expenditures with receipts.
2. The organization will initiate and complete all work outlined in the project description within the applicable time frame after receipt of funding from PalmettoPride.
3. The organization will carry out the proposal activities in active collaboration with local community organizations.
4. Amendments to the grants are permitted upon the mutual agreement of PalmettoPride and the grantee organization and will become effective when specified in writing by PalmettoPride.
5. The organization must provide an interim and a final report documenting program successes, to include a final financial report outlining expenditures along with a written report to PalmettoPride.
6. If the applicant does not comply with the terms and conditions of this agreement, the applicant will be required to reimburse PalmettoPride for grant expenditures, up to the total grant awarded.
7. The applicant understands that any non-compliance with the terms and conditions of this grant will render the organization ineligible for future grants until such a time when the organization has fulfilled all obligations.

AUTHORIZED SIGNATURE FOR APPLICANT AGENCY

Upon submission of this grant proposal, the applicant will be bound by its contents. In the event that PalmettoPride accepts this proposal, the applicant will fully comply with the contents and conditions outlined in the grant proposal. Signatures guarantee that all grant requirements will be met or a full refund will be made to PalmettoPride.

Keep Charleston Beautiful

Organization

Jamie A Gillette
Signature of Project Coordinator for Grant (Contact Person)

10/11/2016

Date

Please note: The contact person identified above will receive the grant check and all grant-related correspondence.

2017 Keep South Carolina Beautiful Grant Application:
Inspiring Community Involvement through Education and Awareness

Introduction

Keep Charleston Beautiful (KCB) is dedicated to promoting the cleanliness and beautification of the City of Charleston through youth education, public awareness, and community involvement. Since 1977, KCB has worked to enhance the City of Charleston through free litter prevention and waste responsibility programs and events. KCB focuses its efforts on litter prevention, education, and awareness, in hopes of inspiring community involvement and encouraging positive changes in behavior that result in litter reduction.

Community Involvement

From January-September 2016, KCB has worked with over 1,320 volunteers, adding up to more than 2,940 hours of service, and an estimated 28,966 pounds of litter.

Keep Charleston Beautiful works year round to promote volunteer involvement. Each spring KCB encourages schools, colleges, businesses, neighborhoods, and civic groups to participate in *Clean Cities Sweep* projects, as part of the *Great American Cleanup (GAC)*. These projects positively impact the community, environment, and the volunteers. *GAC* activities result in hundreds of volunteers taking part in small, local cleanups in their neighborhoods, parks, marshes, roadsides, and community areas. Funds are requested for school and community group supply kits for proposed *GAC* projects.

In addition to the springs' *GAC* events, KCB promotes involvement in year-round cleanups, from individual volunteers, up to groups of 200. Groups are matched with areas and all groups are provided with a tote bag of free cleanup supplies, including trash grabber sticks, trash bags, disposable latex and reusable cloth gloves, safety vests, first aid kits, bug spray, and sanitizer. Volunteer thank you's and giveaways, such as koozies, calendars, bumper stickers, and a t-shirt

to use as a group prize, show the volunteers their efforts are appreciated and help promote KCB and its mission of a litter free City. A key part of KCB's programming is ensuring the public knows how to acquire these supplies and assistance for their cleanups. Informational materials like brochures highlight litter prevention and how to get involved. Funds are requested for volunteer incentives, cleanup supplies, and promotional materials; PalmettoPride's logo will be placed on printed promotional materials.

Keep Charleston Beautiful's *Pick Up After Your Pet* program focuses on the issue of pet litter and its harmful impact on the surrounding aquatic environments. KCB provides pet waste bag dispensers in public parks, for use by pet owners in the community. Removing pet waste drastically reduces the amount of harmful bacteria reaching waterways, allowing each community member to be a steward in the health and quality of their local environment. Funds are requested for pet waste bags.

Litter Reduction

Keep Charleston Beautiful's award winning education program, *Clean City Clara*, targets elementary students, while *Talking Trash (TT)* is geared for middle school ages. Both programs share the goal of inspiring young children to take an active role in litter prevention.

Clara, the litter prevention pelican mascot, visits elementary schools to help children understand how litter negatively impacts a community, how they can help, and why recycling is important. This interactive program is full of thought provoking questions. The program ends with the students conducting a mock litter cleanup. As students clean, they sort the litter into trash and recycling receptacles. At the end of the program, teachers are presented with a story book, activity books, and recycled paper pencils. The materials given to students and teachers help emphasize key points from the presentation and remind children of what was discussed.

The *TT* program is a continuation of the litter prevention programs offered to elementary schools. The *TT* program covers marine debris and its detrimental impact on wildlife and humans. *TT* involves hands-on activity for kids, lesson plans for teachers, group activities, and discussion.

Keep Charleston Beautiful looks for fun new ways to keep students thinking about litter prevention and community involvement. Art contests are held each year encourage students to express their ideas. Art contests include a Calendar Artwork Contest- students submit artwork illustrating volunteerism and cleanup efforts for the front of the next year's annual volunteer event calendar; eleven additional students' artwork are selected to be featured for each month of the calendar. Funds are requested for litter prevention program materials and supplies. PalmettoPride's logo will be featured on printed materials.

Goals and Objectives

Keep Charleston Beautiful aims to work with at least 3,000 community volunteers a year, to reach at least 3,000 local students a year, and to raise enough funds to provide all programs and supplies free of charge. This year's donations total \$7,980, in-kind donations are valued at \$6,869, and KCB has been awarded \$11,500 in grants. Support, both locally and nationally, allows KCB to continually adapt and improve its programs. The ultimate goal is a litter free City.

Benefits

Keep Charleston Beautiful provides local groups and schools with free supplies and education opportunities. Cleanup events are designed to maximize volunteer impact and create cleaner public spaces and natural areas for everyone to enjoy. KCB's effective use of supplies and funding allows for projects and presentations to take place with no additional cost to volunteers or city budgets.

COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: J. Frank Newham DEPT. Public Service
SUBJECT: REBELLION ROAD PIPE REHABILITATION PROJECT
REQUEST: Approval for VacVision Environmental, LLC's proposal for pipe repair and rehabilitation at Rebellion Road.

COMMITTEE OF COUNCIL: Ways & Means DATE: October 25, 2016

COORDINATION: This request has been coordinated with: *(attach all recommendations/reviews)*

	Yes	N/A	Signature of Individual Contacted	Attachment
Corporate Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>Debra L. ...</i>	<input checked="" type="checkbox"/>
Cap. Proj. Cmte. Chair	<input type="checkbox"/>	<input type="checkbox"/>	<i>Amy Wharton</i>	<input type="checkbox"/>
Dir. Dept. of Public Serv.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>Aura ...</i>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>

FUNDING: Was funding previously approved? Yes No N/A

If yes, provide the following: Dept./Div: 050345 Account #: 52240

Balance in Account \$314,675.00 Amount needed for this item \$314,675.00

NEED: Identify any critical time constraint(s).

CFO's Signature: *Amy Wharton*
FISCAL IMPACT:

Mayor's Signature: *John J. Tecklenburg*
John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.



CITY OF CHARLESTON

DEPARTMENT OF PUBLIC SERVICE

CONSTRUCTION SPECIFICATIONS &
CONTRACT DOCUMENTS

REBELLION ROAD PIPE REHABILITATION PROJECT

OCTOBER 2016

Mayor John J. Tecklenburg

City Council

F. Gary White, Jr.

Rodney Williams

James Lewis, Jr.

Robert M. Mitchell

Marvin D. Wagner

William Dudley Gregorie

Perry K. Waring

Michael S. Seekings

A. Peter Shahid, Jr.

Dean C. Riegel

William A. Moody, Jr.

Kathleen G. Wilson

SECTION 01105 ADVERTISEMENT FOR BIDS

PROJECT: REBELLION ROAD PIPE REHABILITATION PROJECT

OWNER: City of Charleston

RECEIPT OF BIDS: Separate sealed bids for the construction of the above referenced project will be received by the Owner at their office, September 15, 2016 until 2:00 p.m., local time at the Department of Public Services, 2 George Street, Suite 2100, 2nd Floor, Charleston, South Carolina, 29401 and at said office will be publicly opened and read aloud.

PROJECT DESCRIPTION: The Work will include traffic control, dewatering, pipe rehabilitation, CCTV inspection and reporting on pipe rehabilitation, removal and replacement of failed storm drain pipes and inlets, and hydroexcavation of the area nearest to the right-of-way to locate all existing utilities, as shown in the Drawings.

DOCUMENT EXAMINATION: The Contract Documents may be examined at the following:
City of Charleston Department of Public Service – 2 George Street, Suite 2100, 2nd Floor, Charleston, South Carolina, 29401.

DOCUMENTS AVAILABLE: CDs with the Contract Documents may be obtained at the Department of Public Services, 2 George Street, Suite 2100, 2nd Floor, Charleston, South Carolina, 29401.

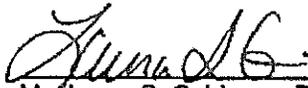
DEPOSIT: No deposit will be required for the first CD of Contract Documents taken. Additional CDs will require a \$15 fee.

QUESTIONS: Questions will be accepted until 5:00 p.m., August 19, 2016. All questions should be made in writing to Frank Newham, newhamf@charleston-sc.gov.

SECURITY: Each bid must be accompanied by a certified check of the Bidder, or by a Bid Bond made payable to the Owner, for an amount equal to not less than 5% of the total bid as a guarantee that, if the bid is accepted, the required Agreement will be executed and that a 100% Performance Bond and 100% Payment Bond will be furnished.

OWNER'S RIGHTS: The Owner reserves the right to waive any informality in bidding and to reject all Bids if it is in the Owner's best interest to do so. Unless all bids are rejected, award will be to the low responsive, responsible Bidder.

WOMEN'S AND MINORITY BUSINESS GOALS: This contract requires compliance with the City of Charleston's minority and women-owned business goals. Bids will not be accepted without compliance with this program. All bidders are advised to familiarize themselves with the city's women's and minority business goals early in the bid preparation process as time is required to properly seek out and solicit qualified women and minority businesses. Goals with regards to Women's and Minority Business Enterprises are specified in Section 01110.



Ms. Laura S. Cabiness, P.E.
Director of Public Service
City of Charleston

(End of Section 01105)

SECTION 01110

INFORMATION FOR BIDDERS

1. RECEIPT AND OPENING OF BIDS: Bids will be received at the time and place as specified in the Advertisement for Bids, and then at said office publicly opened and read aloud. Late Bids will not be accepted nor considered.
2. LICENSES: The attention of Bidders is directed to the provisions of the acts for licensing of General Contractors for the State of South Carolina and all requirements of such acts which have bearing upon this work shall be deemed a part of the Specifications as if written therein in full. The showing by the Contractor of his license number shall be deemed as the Contractor's representation that he is legally qualified to enter into the prescribed Contract for any/or all portions of the work included in his Bid.

All Bidders submitting a Bid shall have a currently valid State of South Carolina Contractor's License for performing work under this contract. Required license numbers shall be shown on the Bid form immediately below the signature identification and on the face of the sealed envelope containing the submitted Bid.

Subcontractors who will be engaged by the General Contractor shall also hold the required licenses.

3. BID SECURITY: Each Bid must be accompanied by a certified check of the Bidder, or a Bid Bond duly executed by the Bidder as principal and having as surety thereon a surety company qualified to do business under the laws of the State of South Carolina and satisfactory to the Owner, in an amount not less than five (5) percent of the Bid. Such check or Bid Bond will be returned to all except the three (3) lowest Bidders within three (3) days after the opening of Bids, and the remaining checks or Bid Bonds will be returned promptly after the Owner and the accepted Bidder have executed the Agreement, or, if no award has been made within 45 days after the date of the opening of Bids, upon demand of the Bidder at any time thereafter, so long as he has not been notified of the acceptance of his Bid.
4. GUARANTY BONDS: The Bidder to whom the contract is awarded will be required to execute the Agreement and obtain the Performance Bond and Payment Bond, each in the sum of the full amount of the Contract Price, within 10 calendar days from the date when Notice of Award is delivered to the Bidder.

The Bonds must be duly executed and acknowledged by the Bidder as principal and by a corporate surety company qualified to do business under the laws of the State of South Carolina and satisfactory to the Owner as surety, for the faithful performance of the Contract and payment for labor and materials. The premiums for such Bonds shall be paid by the Contractor.

Each Bond must be valid for one year beyond the date of final acceptance of the project.

5. EXECUTION OF CONTRACT: The Owner, within 10 days of receipt of acceptable Performance Bond, Payment Bond, and Agreement signed by the party to whom the Agreement was awarded, shall sign the Agreement and return to such party an executed duplicate of the Agreement. Should the Owner not execute the Agreement within such period, the Bidder may, by written notice, withdraw his signed Agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the Owner.
6. POWER OF ATTORNEY FOR BONDS: Attorneys-in-fact who sign Bid Bonds or Performance Bonds or Payment Bonds must file with each Bond a certified and effective dated copy of their power of attorney.
7. LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO CONTRACT: The successful Bidder, upon his failure or refusal to execute and deliver the Contract and Bonds required within 10 days

Rebellion Road Pipe Rehabilitation Project

after he has received notice of the acceptance of his Bid, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his Bid.

8. LAWS AND REGULATIONS: All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included as though herein written out in full.
9. NON-RESIDENT CONTRACTORS: A Bidder, who is a non-resident contractor, shall be aware of Section 12-9-310, Article 3, of the South Carolina Income Tax Act of 1926, as amended. This article requires the Owner entering into a contract with a non-resident taxpayer, where such contract exceeds ten thousand dollars, to withhold two percent (2%) of each and every payment made to the non-resident.

The funds deducted from the payment made to the non-resident taxpayer are funds deemed to be held in trust for the State of South Carolina and will be reported by the Owner to the South Carolina Tax Commission. This deduction is in addition to the retainage deductions specified in the General Conditions.

The withholding of two percent (2%) from payments made to the non-resident taxpayer may be waived only if the non-resident taxpayer shall insure the South Carolina Tax Commission by posting an acceptable bond in the sum of two percent (2%) of the total contract amount. The Owner must receive verification from the South Carolina Tax Commission if this deduction is to be waived.

10. EXAMINATION OF DRAWINGS AND SPECIFICATIONS: Each Bidder shall carefully examine Drawings and Specifications and all Addenda or other revisions thereto and thoroughly familiarize himself with the detailed requirements thereof prior to submitting a Bid. If any Bidder is in doubt as to the true meaning of any part of the Drawings, Specifications, or other Documents, or if any error, discrepancy, conflict, or omission is noted, the Bidder should immediately contact the Engineer in writing and request clarification. The Engineer will clarify the intent of the Documents and/or correct such error, discrepancy, conflict, or omission, and will notify all Bidders by Addendum in cases where the extent of work or the cost thereof will be appreciably affected. No allowance will be made after Bids are received for oversight by a Bidder.
11. EXAMINATION OF SITE: Each Bidder shall visit the site of proposed work and fully acquaint himself with conditions relating to construction and labor so he may fully understand facilities, difficulties, and restrictions attending execution of work under contract. By executing the Agreement, the Contractor represents that he has visited the site, familiarized himself with the local conditions under which the work is to be performed, and correlated his observations with the requirements of the Contract Documents.
12. INFORMATION NOT GUARANTEED: All information given on the Drawings or in the Contract Documents relating to subsurface conditions, existing structures, location of utilities, sewer inverts, or other information on existing facilities, is from the best sources at present available to the Owner. All such information is furnished only for the information and convenience of the Bidders.

It is agreed and understood that the Owner does not warrant or guarantee that the conditions, pipes, or other structures encountered during construction will be the same as those indicated on the Drawings or in the Contract Documents. The Bidder must satisfy himself regarding the character, quantities, and conditions of the various materials and the work to be done.

It further is agreed and understood that the Bidder or the Contractor will not use any of the information made available to him or obtained in any examination made by him in any manner as a basis or ground of claim or demand of any nature, against the Owner or the Engineer, arising from or by reason of any variance which may exist between the information offered by the actual materials or structures encountered during the construction work, except as may otherwise be provided for in the Contract Documents.

Rebellion Road Pipe Rehabilitation Project

If any work is performed by the Contractor, or any subcontractor, prior to adequate verification of applicable data, any resultant extra cost for adjustment of work necessary to conform to existing conditions, or damage to existing facilities, shall be assumed by the Contractor without reimbursement or compensation by the Owner.

13. COMPLETE WORK REQUIRED: The Drawings, Specifications, and all supplementary documents are essential parts of the Contract, and requirements occurring in one are as binding as though occurring in all. They are intended to be cooperative, to describe and provide for a complete work. In case of discrepancy on the Drawings, figured dimensions shall govern. In case of omissions from the Specifications as to items of equipment and materials or quantities thereof, the Drawings shall govern. It shall be the responsibility of the Bidder to call to the attention of the Engineer obvious omissions of such magnitude as to affect the strength, adequacy, function, completeness, or cost of any part of the work in ample time for amendment by Addendum prior to letting date.
14. ADDENDA AND INTERPRETATIONS: No interpretation of the meaning of the Drawings, Specifications, or other Bid Documents will be made orally to any Bidder by the Engineers prior to award of the contract.

Every request for such interpretation should be in writing addressed to J. Frank Newham, The City of Charleston, 2 George Street, Suite 2100, Charleston, SC 29401 or by e-mail: newhamj@charleston-sc.gov. To be given consideration, such request must be received at least 10 days prior to the date fixed for the opening of Bids. Any and all such interpretations and any supplemental instructions will be made in the form of written Addenda to the Specifications which, if issued, will be mailed by certified mail with return receipt requested to all prospective Bidders (at the respective addresses furnished for such purposes), not later than 5 days prior to the date fixed for the opening of Bids. Failure of any Bidder to receive any such Addendum or interpretation shall not relieve such Bidder from any obligation under his Bid as submitted. All Addenda so issued shall become part of the Contract Documents.

15. TIME FOR COMPLETION: The Bidder must agree to commence work within the time stipulated in the Agreement. The Bidder also must agree to fully complete the project within the time stipulated in the Agreement.
16. LIQUIDATED DAMAGES: The Bidder must agree to pay as liquidated damages the amount set forth in the Agreement for each consecutive calendar day that the work is incomplete after the date of completion.
17. WRITTEN MODIFICATIONS: Any Bidder may modify his Bid by written communication at any time prior to the scheduled closing time for receipt of Bids, provided such written communication is received by the Owner prior to the closing time. The written communication should not reveal the Bid price but should provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed Bid is opened.
18. WITHDRAWAL OF BIDS: Any Bidder may withdraw his Bid, either personally or by written request, at any time prior to the scheduled time for opening of Bids or authorized postponement thereof.

No Bidder may withdraw his Bid for a period of 90 days after the date set for the opening thereof, and all Bids shall be subject to acceptance by the Owner during this period.

19. IRREGULAR BIDS: A Bid will be considered irregular and may be rejected for any one of the following reasons:
- 19.1 If the Bid is on a form other than that furnished by the Owner; or if the form is altered or any part detached.

Rebellion Road Pipe Rehabilitation Project

- 19.2 If there are unauthorized additions, conditional or alternate Bids, or irregularities of any kind which may tend to make the Bid incomplete, indefinite, or ambiguous as to its meaning.
- 19.3 If the Bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.
- 19.4 If the Bid does not contain a price for each item listed.
- 19.5 If the Bid does not contain the aggregate of the Bid, obtained by adding the extended amounts of the various items, if applicable.
- 19.6 If the Bid contains obviously unbalanced Bid prices.
- 19.7 If there is reason to believe that any Bidder is interested in more than one Bid on the same project or that there has been collusion among the Bidders.
20. **DISQUALIFICATION OF BIDDERS:** More than one Bid from an individual, a firm or partnership, a corporation or any association, under the same or different names, will not be considered. Reasonable grounds for believing that any Bidder is interested as a principal in more than one Bid for the work contemplated will cause the rejection of all Bids in which such Bidder is believed to be interested. Any or all Bids will be rejected if there is reason to believe that collusion exists among the Bidders. Contracts will be awarded only to responsible Bidders capable of performing the class of work contemplated within the time specified, and having sufficient resources and finances to carry on the work properly.
21. **ACCEPTANCE OR REJECTION OF BIDS:** The Owner reserves the right to reject any and all Bids when such rejection is in the interest of the Owner; to reject the Bid of a Bidder who has previously failed to perform properly or complete on time contracts of a similar nature; and to reject the Bid of a Bidder who is not, in the opinion of the Engineer, in a position to perform the Contract. The Owner also reserves the right to waive any informalities and technicalities in Bidding. The Owner may also accept or reject any of the alternates that may be set forth on the Bid.
22. **METHOD OF AWARD:** Unless all Bids are rejected, the Contract will be awarded to the lowest responsive, responsible Bidder for the Rebellion Road Pipe Rehabilitation Project. A responsive Bidder is defined as one whose Bid is complete and submitted in accordance with the Contract Documents without excisions, exceptions, special conditions, or alternate Bids (unless specifically requested in the Bid form). A responsible Bidder is defined as one who is legally licensed to Bid and perform work in the State of South Carolina, maintains a permanent place of business, has adequate plant equipment to complete the work properly and within the established time limit, has adequate financial status to meet his obligations contingent to the work, and is considered by the Owner and Engineer to be capable of performing the work in accordance with the Contract Documents. The City of Charleston reserves the right to award Item 1 or 2 or both. The award will be based on the lowest acceptable bid for the work to be performed, whether it is Item 1 or Item 2 or both.
23. **NOTICE TO PROCEED:** The Notice to Proceed will be issued within 10 days of the execution of the Agreement by the Owner. Should there be reasons why the Notice to Proceed cannot be issued within such period, the time may be extended by mutual agreement between the Owner and Contractor. If the Notice to Proceed has not been issued within the 10-day period or within the period mutually agreed upon, the Contractor may terminate the Agreement without further liability on the part of either party.
24. **ESTIMATED QUANTITIES:** Bidders must satisfy themselves of the accuracy of the estimated quantities in the Bid Schedule by examination of the site and a review of the Drawings and Specifications, including Addenda. After Bids have been submitted, the Bidder shall not assert

Rebellion Road Pipe Rehabilitation Project

that there was a misunderstanding concerning the quantities of work or of the nature of the work to be done.

25. EASEMENTS: There are no anticipated easements required for this project. If an easement is required, the Owner will obtain it. Entry onto other private property by Contractor shall be made by separate agreement with the property owner. No additional compensation will be allowed for such agreements.
26. WORK IN STATE RIGHTS-OF-WAY: The Owner will obtain the necessary permits for construction across State Highway rights-of-way. The Contractor shall abide by all rules, regulations, and requirements of these agencies in regard to construction under this contract, including the giving of notices, provisions for inspections, and employment of such methods of construction as may be required. Wherever these Specifications may be in conflict with the regulations or requirements of these agencies, such regulations shall govern and these Specifications shall be modified to such extent as necessary to conform to the said rules, regulations, and requirements. Wherever additional costs are incurred due to requirements of these agencies, such additional periods of maintenance, special features of construction, etc., all such costs shall be included in the prices Bid. No additional compensation will be allowed for such costs after award of the Contract.
27. RIGHT TO INCREASE OR DECREASE THE AMOUNT OF WORK: The work comprises approximately the quantities shown in the Bid form, which will be used as a basis for comparison of Bids and not for final estimate. The Owner does not, by expression or by implication, agree that the actual amount of work shall correspond with the estimated quantities.

The Owner reserves the right to increase or decrease the amount of work under the Contract to the extent of 25% of the work contemplated, at the unit prices quoted in the Bid.

28. MINORITY BUSINESS ENTERPRISE (MBE) PROGRAM
 - A. This Project is covered under the City of Charleston's Minority Business Enterprise (MBE) Program, administered by Theron Snype, MBE Manager, 75 Calhoun Street, 3rd Floor, Charleston SC, 29401, (843) 973-7247.
 - B. MBE Goals: The City has established goals for both Minority Business Enterprise (MBE) and Women Business Enterprise (WBE). An MBE is a small business owned and controlled by a minority. A WBE is a small business owned and controlled by a woman. The minority or woman must own a minimum of fifty-one percent (51%) of the business and they must control the management and daily operations of the business in order to qualify. The goals for this contract are a combined 20% for minority and women-owned business enterprise participation. These goals will be applied to the overall contract.
 - C. Certification of Eligibility of MBE/WBE: All MBE/WBE subcontractors must have a Certificate of Eligibility on file with the City's MBE office. Questions regarding certification requirements shall be addressed to the City's Minority Business Enterprise Office. A list of certified minority and women owned firms can be found on the City of Charleston's web site www.charleston-sc.gov using the Services link and then the Minority and Women Owned Business Development link.
 - D. Bidder's MBE/WBE Participation: All bidders must document the extent of their MBE participation by completing the MBE Compliance Provision Forms. Bidders must also complete Affidavits A and B or Affidavit C and attach the entire package to the Bid Form. Bidders who fail to submit these documents as required, the Procurement Office shall deem the bid non-responsive and will be ineligible for award of the Contract.
 - E. The contractor shall perform the contract in accordance with the representations made in the Minority/Women-Owned/Disadvantaged Business Enterprise Compliance Provisions

Rebellion Road Pipe Rehabilitation Project

(Affidavit A) and the Work to be Performed by Minority Firms (Affidavit B) submitted as part of the bid proposal.

29. FORM OF BID: All Bids must be submitted on the blank Bid form provided therefore and must state the total price for which the Bidder will complete the work in accordance with the terms of the Contract Documents. All blank spaces must be filled in and there shall be no interlineation, alterations, or erasures.

The Bid must be signed manually by a principal or an officer duly authorized to make contracts. The Bidder's legal name must be fully stated and the name and title of the person signing must be typed below his signature.

30. SUBMITTING BIDS: Each Bid must be submitted on the prescribed Bid form. All blank spaces for Bid prices must be filled in, in ink or typewritten, and the Bid must be fully completed and executed when submitted. Only one copy of the Bid form is required.

Bidders are cautioned that it is the responsibility of each individual Bidder to assure that his Bid is in the possession of the responsible official or his designated alternate prior to the stated time and at the stated place of the Bid opening. Owner is not responsible for Bids delayed by mail and/or delivery services of any nature.

Each Bid must be submitted in an opaque sealed envelope, plainly marked on the outside addressed and delivered as shown below. If forwarded by mail, the sealed envelope containing the Bid must be enclosed in another envelope addressed to the Owner in the following format and at the following address:

Rebellion Road Pipe Rehabilitation Project

Upper Left Hand Corner:

Bidder's Name
Bidder's Address

To: City of Charleston
2 George Street, Suite 2100
Charleston, SC 29401

Attention: Ms. Laura S. Cabiness, P.E.
City Engineer

Lower Left Hand Corner:

Bid for Construction of:

REBELLION ROAD PIPE REHABILITATION PROJECT

South Carolina General Contractor's License No. _____

Classification _____

Expiration Date _____

City of Charleston Business License No. _____

Rebellion Road Pipe Rehabilitation Project

SECTION 01140

BID

TO: City of Charleston (hereinafter called "Owner")
2 George Street, Suite 2100
Charleston, SC 29401

FROM: VacVision Environmental, LLC

10200 US Hwy 92 East

Phone (813) 626-0700

of the City of Tampa, County of Hillsborough

and State of Florida, hereinafter called "Bidder."

PROJECT: REBELLION ROAD PIPE REHABILITATION PROJECT

The Bidder, in compliance with your Advertisement for Bids for the construction of above referenced project, having examined the Drawings and Specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project, including the availability of materials and labors, hereby proposes to furnish all labor, materials, and supplies, and to construct the project in accordance with the Contract Documents, within the time set forth therein, and the prices stated below. These prices are to cover all expenses incurred in performing the work required under the Contract Documents, of which this proposal is a part.

The Bidder declares that he has carefully examined the site of the proposed Work and fully informed and satisfied himself as to the conditions there existing, the character and requirements of the proposed Work, and the difficulties attendant upon its execution, and that he has carefully read and examined the Drawings, the annexed proposed Agreement, and the Specifications and other Contract Documents therein referred to, and knows and understands the terms and provisions thereof.

Bidder understands that information relative to existing structures, apparent and latent conditions, and natural phenomena, as furnished to him on the Drawings, in the Contract Documents, or by the Owner or the Engineer, carries no guarantee expressed or implied as to its completeness or accuracy, and he has made due allowance therefore.

TIME FOR COMPLETION AND LIQUIDATED DAMAGES: Bidder hereby agrees to commence work under this contract within 15 days of receipt of the Notice to Proceed and to fully complete the project within 60 consecutive calendar days thereafter.

Bidder also agrees to pay \$500/day as liquidated damages for each consecutive calendar day thereafter as hereinafter provided in the General Conditions.

Rebellion Road Pipe Rehabilitation Project

ADDENDA: Bidder acknowledges receipt of the following Addenda:

Addendum No. <u>None</u>	Date _____
Addendum No. _____	Date _____
Addendum No. _____	Date _____
Addendum No. _____	Date _____

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE
1.	<u>Mobilization</u>	1	LS	\$ 5,000.00	\$ 5,000.00
2.	<u>Traffic Control</u>	1	LS	\$ 1,500.00	\$ 1,500.00
3.	<u>Catch Basin Rehabilitation</u>	22	EA	\$ 750.00	\$ 16,500.00
4.	<u>Pipe Rehabilitation (10")</u>	87	LF	\$ 50.00	\$ 4,350.00
5.	<u>Pipe Rehabilitation (12")</u>	487	LF	\$ 75.00	\$ 36,525.00
6.	<u>Pipe Rehabilitation (15")</u>	1931	LF	\$ 90.00	\$ 173,790.00
7.	<u>Dewatering</u>	12	EA	\$ 500.00	\$ 6,000.00
8.	<u>CCTV Inspection & Reporting.</u>	2505	LF	\$ 2.00	\$ 5,010.00
9.	<u>Point Repair of Pipe</u>	12	EA	\$ 4,000.00	\$ 48,000.00
10.	<u>Hydro excavation of Utilities at Outfall</u>	9	EA	\$ 2,000.00	\$ 18,000.00
Total Bid Price					\$ 314,675.00

Additional work shall be paid in accordance with these unit prices.

The above unit prices shall include all labor, materials, dewatering, shoring, removal, overhead, profit, insurance, taxes, fees, etc., necessary to complete the proposed improvements shown and described in the Contract Documents.

LUMP SUM BID

The lump sum price shall include all costs for the installation of the storm drainage improvements in accordance with the Contract Documents. The lump sum bid for construction of the improvements is:

Three Hundred Fourteen Thousand Six Hundred Seventy Five & 0/100 (Dollars) (\$ 314,675.00).

Bidder understands that the Owner reserves the right to reject any and all bids and to waive any informalities in the bidding. The Bidder agrees that this Bid shall be good and may not be withdrawn for a period of 90 calendar days after the scheduled closed time for receiving bids.

Upon receipt of written notice of the acceptance of this Bid, Bidder will execute the formal Agreement within 10 days, and deliver Surety Bonds as required by the General Conditions. The bid security attached in the sum of Fifteen Thousand Seven Hundred Thirty Three Dollars and Seventy Five Cents

Rebellion Road Pipe Rehabilitation Project

(\$15,733.75) is to become the property of the Owner in the event the Agreement and Bond are not executed within the time above set forth as liquidated damages for the delay and additional expense to the Owner caused thereby.

The undersigned declares that his firm is (delete those not applicable):

A corporation organized and existing under the laws of the State of Florida

A partnership consisting of N/A

The undersigned declares that the person signing this proposal is fully authorized to sign the proposal on behalf of the firm listed and to fully bind the firm listed to all the conditions and provisions thereof.

It is agreed that no person or persons or company other than the firm listed below or as otherwise indicated hereinafter has any interest whatsoever in this proposal or the contract that may be entered into as a result thereof, and that in all respects the proposal is legal and fair, submitted in good faith, without collusion or fraud.

Respectfully Submitted:

VacVision Environmental, LLC
(Contractor)

By: [Signature]
(Signature)

Benjamin Roese
(Name)

Managing Member
(Title)

10200 US Hwy 92 East
(Address)

Tampa, FL 33610



SC General Contractor's License No. G118010

Initial the following items to indicate compliance with specifications:

[Signature] The Contractor has complied with the Owner's MBE Program and has completed and included Affidavits A and B or C.

Rebellion Road Pipe Rehabilitation Project

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of Florida)

County of Hillsborough)

Benjamin Rouse, being first duly sworn, deposes and says that:

1. He is Managing Member of VacVision Environmental, LLC, the Bidder that has submitted the attached Bid:
2. He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid:
3. Such Bid is genuine and is not a collusive or sham Bid:
4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm, or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm, or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit, or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Charleston or any person interested in the proposed Contract; and
5. The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(signed) *BR*

 Managing Member

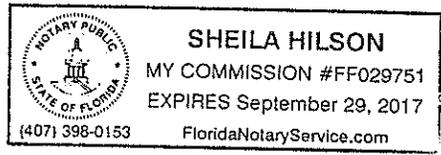
 (Title)

Subscribed and sworn to before me this 29th day of September, 2016.

Sheila Hilson

 Office Manager (title)

My commission expires 09/29/2017.



MWBE Compliance Provisions

New Women/Minority Business Enterprise Forms

Charleston City Council has adopted a policy setting a combined 20% as the guidelines for minority and women-owned business enterprise participation for this project.

The guidelines for participation in City of Charleston's contracts for services, including construction, are hereby made part of any contracting resulting from this solicitation. These requirements shall apply to all contracts and resulting subcontracts issued by contractors. A list of certified minority and women-owned firms can be found on the City of Charleston's web site www.charleston-sc.gov using the Services link and then the Minority and Women Owned Business Development link; or by contacting Theron Snype, MBE Manager, 75 Calhoun Street, 3rd Floor, Charleston, SC 29401, (843) 973-7247, snypet@charleston-sc.gov.

The new compliance documents are located in the Bid Package. These documents **must** be completed and returned with your bid response. Failure to do so may cause your bid/proposal response to be deemed non-responsive.

Rebellion Road Pipe Rehabilitation Project
City of Charleston
Minority/Women-Owned Business Enterprise (MWBE)
Compliance Provisions

This document shall be included with the submittal of the bid or offer. If the bidder or offeror fails to submit the form with the bid or offer as required, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

APPLICATION:

Charleston City Council has adopted a policy setting 20% as the guidelines for combined women-owned and minority-owned business enterprise participation for this project.

Definitions:

MBE is defined as a small business owned and controlled by minorities.

WBE is defined as a small business owned and controlled by women.

This means that fifty-one percent (51%) of the business must be owned by minorities or women and that they must control the management and daily operations of the business.

The guidelines for participation in City of Charleston's contracts for services, including construction, are hereby made a part of any contract resulting from this solicitation. These requirements shall apply to all contracts and resulting subcontracts issued by contractors. A list of certified minority-owned and women-owned business enterprises can be found on the City of Charleston's web site www.charleston-sc.gov; or by contacting Theron Snype, MBE Manager, 145 King Street, Suite 104, Charleston, SC 29401, (843) 973-7247, snypet@charleston-sc.gov.

COMPLIANCE REQUIREMENTS:

1. The Offeror shall provide, **with the submittal**, the following Affidavits properly executed which signify that the Offeror understands and agrees to the incorporated contract provisions:

Affidavit A - Listing of the Good Faith Effort & Identification of Minority and Women-owned Business Participation as certification that efforts were made to use MWBE businesses on this project,

AND

Affidavit B – Work to be Performed by Minority and/or Women-owned Firms

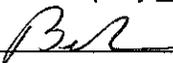
OR

Affidavit C – Intent to Perform Contract with Own Workforce, in making this certification the Offeror states that the Offeror does not customarily subcontract elements of this type project and will perform all elements of the work with his/her own current work forces.

2. All affidavits supplied by the Offeror shall become a part of the agreement between the Contractor and the City of Charleston for performance of this contract. Failure to comply with any of these statements, certifications, or intentions stated in the Affidavits, or with the MBE/WBE provisions shall constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the City of Charleston whether to terminate the contract for breach. In addition any breach may result in the bidder being prohibited from participation in future construction bids as determined by the City of Charleston.

The Contractor shall provide an itemized statement of payments to each MBE AND WBE subcontractor before final payment is processed.

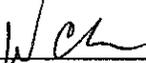
Name of Company: VacVision Environmental, LLC


Signature

Benjamin Roese
Print Name

Managing Member
Title

09/29/2016
Date

Attest: 

Rebellion Road Pipe Rehabilitation Project
AFFIDAVIT A
Page 1 of 2

City of Charleston, South Carolina Listing of the Good Faith Effort

Affidavit of _____
(Name of Offeror)

I have made a good faith effort to comply under the following checked areas:
(A minimum of 6 areas must be checked in order to have achieved a "good faith effort")

- o 1. Contacted MBE businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on Federal, State or local government maintained lists, at least 10 business days before the submittal date and notified them of the nature and scope of the work to be performed. **Complete Affidavit A, Page 2.**
- o 2. Followed up with contacted MBE subsequent to the initial contact and at least 72 hours prior to submittal deadline/bid opening either by phone, facsimile or in person.
- o 3. Made the construction plans, specifications, and requirements available for review by prospective MBE businesses, or providing these documents to them at least 10 business days before the submittal deadline/bid opening.
- o 4. Itemized elements of the work or combined elements of the work into economically feasible units to facilitate minority participation.
- o 5. Attended pre-solicitation meetings scheduled by the City.
- o 6. Provided MBE with assistance in getting required bonding or insurance requirements or provided alternatives to bonding or insurance for subcontractors.
- o 7. Negotiated in good faith with interested MBEs and did not reject them as unqualified without sound reasons based on their capabilities. **(Any rejection of a minority or woman business based on lack of qualifications shall include reasons for rejection documented in writing.)**
- o 8. Provided MBEs with assistance in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted MBEs in obtaining the same unit pricing with the Offeror's suppliers in order to help such businesses in establishing credit.
- o 9. Provided training or mentoring to at least two (2) MBEs within 120 days prior to submittal deadline/bid opening. The training or mentoring program should be in conjunction with local trade groups, technical schools, or community organizations that provide recruitment, education or skill levels.
- o 10. Negotiated joint venture, partnership or other similar arrangements with MBEs in order to increase opportunities for minority business participation.
- o 11. Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

The undersigned hereby agrees to enter into a formal agreement with the firms listed in Affidavit B Work to be performed by Minority Firms conditional upon execution of a contract with the Owner. Failure to abide by this provision will constitute a breach of the contract.

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

Date: _____ Name of Authorized Officer (Print/Type): _____

Signature: _____

Title: _____

Rebellion Road Pipe Rehabilitation Project

AFFIDAVIT A

Page 2 of 2

City of Charleston, South Carolina Minority Business Participation Efforts

(Use as many sheets as necessary)

I, _____, hereby certify that on this project we contacted the following minority business enterprises as subcontractors, vendors, suppliers, or providers of professional services.

1. Minority Firm Name and Contact	Minority Firm Address
Minority Firm Telephone Number _____ Minority Firm Fax Number _____ DBE Certification Number _____	Minority Group Type <input type="checkbox"/> (African American) <input type="checkbox"/> (Women) <input type="checkbox"/> (Asian American) <input type="checkbox"/> (Hispanic) <input type="checkbox"/> (American Indian) <input type="checkbox"/> (Other) <hr/> <input type="checkbox"/> Follow up Verification
2. Minority Firm Name and Contact	Minority Firm Address
Minority Firm Telephone Number _____ Minority Firm Fax Number _____ DBE Certification Number _____	Minority Group Type <input type="checkbox"/> (African American) <input type="checkbox"/> (Women) <input type="checkbox"/> (Asian American) <input type="checkbox"/> (Hispanic) <input type="checkbox"/> (American Indian) <input type="checkbox"/> (Other) <hr/> <input type="checkbox"/> Follow up Verification
3. Minority Firm Name and Contact	Minority Firm Address
Minority Firm Telephone Number _____ Minority Firm Fax Number _____ DBE Certification Number _____	Minority Group Type <input type="checkbox"/> (African American) <input type="checkbox"/> (Women) <input type="checkbox"/> (Asian American) <input type="checkbox"/> (Hispanic) <input type="checkbox"/> (American Indian) <input type="checkbox"/> (Other) <hr/> <input type="checkbox"/> Follow up Verification
4. Minority Firm Name and Contact	Minority Firm Address
Minority Firm Telephone Number _____ Minority Firm Fax Number _____ DBE Certification Number _____	Minority Group Type <input type="checkbox"/> (African American) <input type="checkbox"/> (Women) <input type="checkbox"/> (Asian American) <input type="checkbox"/> (Hispanic) <input type="checkbox"/> (American Indian) <input type="checkbox"/> (Other) <hr/> <input type="checkbox"/> Follow up Verification

We certify, under penalties of perjury, that we have examined the information in this affidavit, and to the best of our knowledge and belief, this information is true, correct and complete.

Date: _____ Name of Authorized Officer (Print/Type): _____

Sworn to before me this ____ day of _____, 20__.

Notary Public for the State of _____

My Commission Expires: _____

Print Name: _____

Phone Number: _____

Address: _____

Signature: _____

Title: _____

Notary Seal:

Rebellion Road Pipe Rehabilitation Project

AFFIDAVIT B

City of Charleston, South Carolina
Work to be Performed by Minority Businesses

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

_____, Total Project Amount \$_____
(Project Name)

I will make a good faith effort to expend a minimum of _____% of the total dollar amount of the contract with minority business enterprises. Minority businesses will be employed as subcontractors, vendors, suppliers, or providers of professional services. Such work will be subcontracted to the following firms listed below:

(Attach additional sheets if needed)

Table with 4 columns: Name and Phone Number, *Minority Code, Work Description, Dollar Value. Contains 7 empty rows for listing subcontractors.

Total MBE Participation: _____ % \$ _____

* Minority categories: African American (B); Hispanic (H); Asian American (A), American Indian (I); Woman Owned (W); Other (D)

The undersigned will enter into a formal agreement with minority firms for work listed in this schedule conditional upon execution of a contract with the Owner.

The undersigned hereby certifies that he/she has read the terms of this commitment and is authorized to bind the Offeror to the commitment set forth herein. We certify, under penalties of perjury, that we have examined the information in this affidavit, and to the best of our knowledge and belief, this information is true, correct, and complete.

Date: _____ Name of Authorized Officer (Print/Type): _____

Signature: _____

Title: _____

Sworn to before me this ____ day of _____, 20__.

Notary Public for the State of _____

My Commission Expires: _____

Notary Seal:

Print Name: _____

Phone Number: _____

Address: _____

Rebellion Road Pipe Rehabilitation Project

AFFIDAVIT C

City of Charleston, South Carolina
Intent to Perform Contract with Own Workforce.

Affidavit of VacVision Environmental, LLC

(Name of Offeror)

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

Rebellion Road Pipe Rehabilitation Project

(Name of Project)

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

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

The undersigned hereby certifies that he/she has read this certification and is authorized to bind the Offeror to the commitments contained herein. We certify, under penalties of perjury, that we have examined the information in this affidavit, and to the best of our knowledge and belief, this information is true, correct and complete.

Date: 09/29/2016

Name of Authorized Officer (Print/Type): Benjamin Roesse

Signature: *BR*

Title: Managing Member

Sworn to before me this 29th day of September, 2016.

Notary Public for the State of Florida

My Commission Expires: 09/29/2017

Print Name: Sheila Hilson

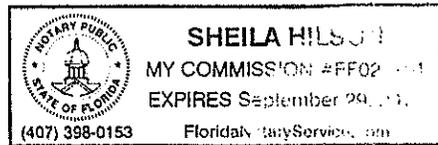
Phone Number: (813) 626-0700

Address: 10200 US Hwy 92 East

Tampa, FL 33610

Notary Seal:

Sheila Hilson



(End of Section 01140)

Rebellion Road Pipe Rehabilitation Project

SECTION 01142 BID BOND

KNOW ALL MEN BY THESE PRESENTS: that we, the undersigned VacVision Environmental, LLC, as Principal, and Platte River Insurance Company, as Surety, are hereby held and firmly bound unto City of Charleston, as OWNER, in the penal sum of Five Percent of the Bid Amount 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.

Signed this 13th day of September, 2016.

The Condition of the above obligation is such that whereas the Principal has submitted to City of Charleston a certain BID, attached hereto and hereby made a part hereof, to enter into a contract in writing, for the construction of:

REBELLION ROAD PIPE REHABILITATION PROJECT

NOW, THEREFORE,

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

Then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated. The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

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

VacVision Environmental, LLC
Principal

Platte River Insurance Company
Surety

By: [Signature]
Attorney-in-Fact

SEAL

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

(End of Section 01142)

PLATTE RIVER INSURANCE COMPANY
POWER OF ATTORNEY

41351708

KNOW ALL MEN BY THESE PRESENTS, That the PLATTE RIVER INSURANCE COMPANY, a corporation of the State of Nebraska, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

-----MICHAEL ROGERS; JASON FARQUHAR; TREVOR LOWELL MCCARTHY-----
-----JENNIFER FAVA; BARRY RYAN-----

its true and lawful Attorney(s) in fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

-----ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEEDS20,000,000-----

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PLATTE RIVER INSURANCE COMPANY at a meeting duly called and held on the 8th day of January, 2012

"RESOLVED, that the President, and Vice-President, the Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, one or more vice-presidents, assistant secretaries and attorney(s) in fact, each appointee to have the powers and duties usual to such offices to the business of the company, the signature of such officers and the seal of the Corporation may be affixed to such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Corporation in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney in fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney in fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

IN WITNESS WHEREOF, the PLATTE RIVER INSURANCE COMPANY has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 27th day of July, 2015

Attest:

Gary W. Stumper
Gay W. Stumper
President
Surety & Fidelity Operations



PLATTE RIVER INSURANCE COMPANY

Stephen L. Silbs
Stephen L. Silbs
CEO & President

STATE OF WISCONSIN } SS
COUNTY OF DAKE }

On the 27th day of July, 2015 before me personally came Stephen L. Silbs, to me known, who being by me duly sworn, did depose and say that he resides in the County of New York, State of New York; that he is President of PLATTE RIVER INSURANCE COMPANY, the corporation described herein and which executed the above instrument, that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by his order.



David J. Regele
David J. Regele
Notary Public, Dane Co., WI
NY Commission E. Permittment

STATE OF WISCONSIN } SS
COUNTY OF DAKE }

I, the undersigned, duly elected to the office stated below, now the incumbent in PLATTE RIVER INSURANCE COMPANY, a Nebraska Corporation, authorized to make this certificate, DO HEREBY CERTIFY that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this 13TH day of SEPTEMBER 2016

SEAL

Antonio Celti
Antonio Celti
Secretary

*** PLEASE CHECK YOUR CARD & CERTIFICATE ADDRESS, CLASSIFICATION(S), AND CONTRACT LIMIT FOR ACCURACY ***

*** The individual(s) qualifying this license can be verified on our website at <https://verify.llronline.com/LicLookup/LookupMain.aspx> ***

LICENSE RENEWALS - Licenses expire on 10/31/20xx of every odd-numbered year. Renewal website: <https://renewals.llronline.com/RegLogin.asp> - only available during the renewal year between the months of July - January 31. After renewals are over in January, the portal is closed and licenses not renewed must be reinstated by submitting an initial application, Doc #165, from our website, www.llronline.com/pol/contractors, with a current financial statement and fee. Visit our website at <http://www.llronline.com/pol.asp> for all available online services.

*** USERID: 2292144 - PASSWORD: 423603 ***

LICENSE NUMBER: G118010

CCB1005809

CCB1005809

State of South Carolina
Department of Labor, Licensing and Regulation
Contractor's Licensing Board

Certifies
VACVISION ENVIRONMENTAL LLC
10200 US HWY 92 EAST
TAMPA FL 33610

#5 a
GENERAL CONTRACTOR

LICENSE NUMBER: G118010

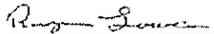
VACVISION ENVIRONMENTAL LLC

is Licensed in the Classification(s) and Group# Limitation of:

WLS

License Contract Group# Limitations:
Group #1 - \$30,000 Group #3 - \$350,000
Group #2 - \$100,000 Group #4 - \$750,000
Group #5 - \$Unlimited

EXPIRATION DATE: 10/31/2016
Date of Issue: 11/20/2014
Initial License Date: 06/05/2013


Administrator

(The number after the 2-letter classification above is your Group#)
(See back of card for 2-letter classification abbreviations)

*** **BOTH PORTIONS OF THE ABOVE POCKETCARD MUST BE PRESENTED AT ALL TIMES** ***

DO NOT PEEL CARD FROM A CORNER

To remove card from backing

- Bend form back from the outside edge
- Pull card off backing

WALL CERTIFICATE BELOW:

CCB1005809

STATE OF SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION
CONTRACTOR'S LICENSING BOARD
LICENSE CERTIFICATE

This license certifies that

VACVISION ENVIRONMENTAL LLC
10200 US HWY 92 EAST
TAMPA FL 33610

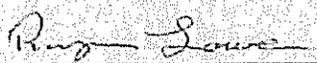
Has given satisfactory evidence of the necessary qualifications required by the laws of the State of South Carolina and is duly qualified and entitled to practice as a

GENERAL CONTRACTOR

For the Classification(s) and Group Limitation shown below:
WLS

License Number: G118010
Date of Issue: 11/20/2014
Expiration Date: 10/31/2016
Initial License Date: 06/05/2013

License Contract Group# Limitations:
(The number after the 2-letter classification above is your Group#)
Group #1 - \$30,000 Group #3 - \$350,000
Group #2 - \$100,000 Group #4 - \$750,000
Group #5 - \$Unlimited


Administrator

Rebellion Road Pipe Rehabilitation Project

SECTION 01210 AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 201__, by and between THE CITY OF CHARLESTON,

acting herein through its _____ Mayor _____
(Title of Authorized Official)

hereinafter call "OWNER" and VacVision Environmental, LLC
(Name of Contractor)

doing business as a Limited Liability Company,
(an Individual), (a Partnership), or (a Corporation)

of the City of Tampa, County of Hillsborough, and

State of Florida, hereinafter called "CONTRACTOR."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

- 1. The CONTRACTOR hereby agrees with the OWNER to commence and complete the construction described as follows:

REBELLION ROAD PIPE REHABILITATION PROJECT

hereinafter called the PROJECT.

- 2. The CONTRACTOR will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the PROJECT described herein.
- 3. The CONTRACTOR will commence the work required by the CONTRACT DOCUMENTS within 15 calendar days after the date of the NOTICE TO PROCEED and will fully complete the PROJECT within 60 consecutive calendar days unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS. The CONTRACTOR further agrees to pay, as liquidated damages, the sum of \$500.00 for each consecutive calendar day thereafter as hereinafter provided in the GENERAL CONDITIONS.
- 4. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of

\$314,675.00 Dollars

or as shown in the Bid Schedule.

- 5. The term "CONTRACT DOCUMENTS" means and includes the following:
 - 5.1 Advertisement for Bids
 - 5.2 Information for Bidders
 - 5.3 Bid

Rebellion Road Pipe Rehabilitation Project

- 5.4 Bid Bond
- 5.5 Agreement
- 5.6 General Conditions
- 5.7 Supplemental Conditions
- 5.8 Performance Bond
- 5.9 Payment Bond
- 5.10 Certificate of Owners Attorney
- 5.11 Notice of Intent to Award
- 5.12 Notice to Award
- 5.13 Notice to Proceed
- 5.14 Change Orders
- 5.15 Drawings prepared by The City of Charleston and listed in the Supplemental Conditions
- 5.16 Specifications prepared by The City of Charleston and listed in the Supplemental Conditions
- 5.17 Rebellion Road CCTV Inspection dated October, 2014
- 5.18 Addenda
No. None Dated _____
No. _____ Dated _____
No. _____ Dated _____
No. _____ Dated _____

- 6. The OWNER agrees to pay the CONTRACTOR in the manner and at such times as set forth in the General Conditions and such amounts as required by the CONTRACT DOCUMENTS.
- 7. This Agreement shall be binding on all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

Rebellion Road Pipe Rehabilitation Project

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement in six counterparts, each of which shall be deemed an original, in the year and day first above written.

(OWNER)

By: _____

(SEAL)

(Title of Authorized Official)

ATTEST:

(Secretary)

(Witness)

VacVision Environmental, LLC

(CONTRACTOR)

By: Ben

Benjamin Roese

Managing Member

(Title)

(SEAL)

10200 US Hwy 92 East, Tampa, FL 33610

(Address)

ATTEST:

Wes

(Secretary)

Ben

(Witness)

(End of Section 01210)

SECTION 01212 PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

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

(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto _____

City of Charleston
(Name of Owner)

2 George Street, Suite 2100, Charleston, SC 29401
(Address of Owner)

hereinafter called OWNER, in the penal sum of _____

_____ Dollars, (\$ _____) in lawful money

of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas the Principal entered into a certain contract with the OWNER, dated the _____ day of _____, 20__, a copy of which is hereto attached and made a part hereof for the construction of:

REBELLION ROAD PIPE REHABILITATION PROJECT

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

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

Rebellion Road Pipe Rehabilitation Project

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in six (6) counterparts, each one of which shall be deemed an original, this the _____ day of _____, 20__.

ATTEST:

Principal

(Principal) Secretary (SEAL)

By: _____(S)

Address

Witness as to Principal

Address

ATTEST:

Surety

(Surety) Secretary

By: _____
Attorney-in-Fact

(SEAL)

Address

Witness as to Surety

Address

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

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

(End of Section 01212)

SECTION 01214 PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

_____ (Name of Contractor)

_____ (Address of Contractor)

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

_____ (Name of Surety)

_____ (Address of Surety)

hereinafter called Surety, are held and firmly bound unto _____

_____ City of Charleston
(Name of Owner)

_____ 2 George Street, Suite 2100, Charleston, SC 29401

_____ (Address of Owner)

hereinafter called OWNER, in the penal sum of _____

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

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

REBELLION ROAD PIPE REHABILITATION PROJECT

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms,
SUBCONTRACTORS, and corporations furnishing materials for or performing labor in the prosecution of
the WORK provided for in such contract, and any authorized extension or modification thereof, including
all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment
and tools, consumed or used in connection with the construction of such WORK, and all insurance
premiums on said WORK, and for all labor, performed in such WORK whether by SUBCONTRACTOR or
otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

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

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall
abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

Rebellion Road Pipe Rehabilitation Project

IN WITNESS WHEREOF, this instrument is executed in six (6) counterparts, each one of which shall be deemed an original, this the _____ day of _____, 201_.

ATTEST:

(Principal) Secretary (SEAL)

Witness as to Principal

Address

ATTEST:

(Surety) Secretary

(SEAL)

Witness as to Surety

Address

Principal

By: _____ (S)

Address

Surety

By: _____
Attorney-in-Fact

Address

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

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

(End of Section 01214)

SECTION 01218

CERTIFICATE OF OWNER'S ATTORNEY

I, the undersigned, _____, the
duly authorized and acting legal representative of _____

do hereby certify as follows:

I have examined the attached contract(s) and surety bonds and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

(Signed)

Date: _____

(End of Section 01218)

NOTICE OF INTENT TO AWARD

TO: _____

PROJECT DESCRIPTION: REBELLION ROAD PIPE REHABILITATION PROJECT

The OWNER has considered the BID submitted by you on _____, for the above-described WORK in response to its Advertisement for Bids and Information for Bidders.

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 ten (10) days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out to the OWNER'S acceptance of your BID as abandoned and as 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 _____, 201__

City of Charleston
Owner

By: _____
Laura S. Cabiness, P.E.

Title: Director of Public Service / City Engineer

ACCEPTANCE OF NOTICE

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

This the ____ day of _____, 201__

By

Title _____

NOTICE OF AWARD

TO: _____

PROJECT DESCRIPTION: REBELLION ROAD PIPE REHABILITATION PROJECT

The OWNER has considered the BID submitted by you on _____, 201__, for the above described WORK in response to its Advertisement for Bids and Information for Bidders.

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 ten (10) days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out to the OWNER'S acceptance of your BID as abandoned and as 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 _____, 201__

City of Charleston

By: _____
Laura S. Cabiness, P.E.

Title: Director of Public Service

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby

acknowledged by

This the _____ day of _____, 201__

By

Title _____

SECTION 01221

CHANGE ORDER

Date:
Change Order No.:
Contract No.:

Description of and Reason for Change: _____

Itemization of Proposed Change and Basis for Payment

Original Contract Price.....	\$ _____
Previous Change Orders.....	\$ _____
This Change, (An Addition) (A Deduction) of.....	\$ _____
Proposed Revised Contract Price.....	\$ _____

Additional funds are to be provided in the following manner: _____

Extension of Contract Time Required: _____ Days

Revised Contract Completion Date: _____.

This Change is Acceptable: _____, Contractor

By _____

Recommended: Project Manager

By _____

Approval of Change is Requested: CITY OF CHARLESTON, Owner

By _____
Laura S. Cabiness, P.E.

NOTICE TO PROCEED

TO: _____

Date: _____
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 60 consecutive days thereafter. The date of completion of all WORK is therefore _____.

City of Charleston
Owner

By _____
Laura S. Cabiness, P.E.

Title _____
Director, Public Service

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged

by _____

this the _____ day of _____, 201__.

By _____

Title _____

SECTION 01230

GENERAL CONDITIONS

1. GENERAL

1.1 THE CONTRACT DOCUMENTS: The Contract Documents consist of the Advertisement for Bids, Information for Bidders, Bid, Bid Bond, Agreement, Payment Bond, Performance Bond, Conditions of the Contract (General, Supplemental, and Other Conditions), Drawings, Specifications, Addenda, Notice of Award, Notice to Proceed, Change Orders, Drawings prepared by The City of Charleston and listed in the Supplemental Conditions, Specifications prepared by the City of Charleston and listed in the Supplemental Conditions, and Rebellion Road CCTV Inspection dated October, 2014.

1.2 CORRELATION AND INTENT OF DOCUMENTS: The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. The intent of the Drawings and Specifications is that the Contractor shall furnish all labor, supplies and materials, tools, machinery, equipment, transportation, maintenance of traffic, supervision, temporary construction of any nature, and all other services, facilities and means necessary for the proper execution and completion of the Work in accordance with the Contract Documents and all incidental work necessary to complete the Project in an acceptable manner, and fully complete the work or improvement ready for use, occupancy, and operation by the Owner.

Any mention in the Specifications or indication on the Drawings of articles, materials, methods, or operations shall require the Contractor to furnish such item or service as if it was fully specified unless it is noted or specified as not in the contract. It is intended that all materials shall be new and best quality in every respect unless otherwise noted or specified. All workmanship, methods of assembly, and erection shall be first class in every respect.

1.3 CONFLICT OR INCONSISTENCY: If there is any conflict or inconsistency between the provisions of the Supplemental Conditions and the provisions of the other Contract Documents, the provisions of the Supplemental Conditions shall prevail. If there is any conflict or inconsistency between the provisions of the General Conditions and the provisions of any of the Contract Documents other than the Supplemental Conditions, the provisions of the General Conditions shall prevail.

In case of conflict between the Drawings and Specifications, the Specifications shall govern. Figure dimensions on Drawings shall govern over scale dimensions, and detailed Drawings shall govern over general Drawings.

In case of difference between small-scale and large-scale drawings, the large-scale drawings shall govern. Schedules on any contract drawing shall take precedence over conflicting information on that or any other contract drawing. On any of the drawings where a portion of the work is detailed or drawn out and the remainder is shown in outline, the parts detailed or drawn out shall apply also to all other like portions of the work. Where the word *similar* occurs on the drawings, it shall have a general meaning and not be interpreted as being identical, and all details shall be worked out in relation to their location and their connection with other parts of the work.

Any discrepancies found between the Drawings and Specifications and site conditions or any inconsistencies or ambiguities in the Drawings or Specifications shall be immediately reported to the Engineer, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Contractor after his discovery of such discrepancies, inconsistencies, or ambiguities shall be done at the Contractor's risk.

Should a conflict be discovered within the Contract Documents, the Contractor shall be deemed to have estimated the higher quality way of doing the Work unless he shall have

Rebellion Road Pipe Rehabilitation Project

asked for and obtained a decision in writing from the Engineer before entering into this Contract.

1.4 ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS: The Contractor may be furnished additional instructions and detail drawings, by the Engineer, as necessary to carry out the Work required by the Contract Documents. The additional drawings and instructions thus supplied will become a part of the Contract Documents. The Contractor shall carry out the Work in accordance with the additional detail drawings and instructions.

1.5 SPECIFICATION HEADINGS: For convenience of reference, these Specifications are divided into various Divisions, Sections, Subsections and Paragraphs. The titles of these headings shall not be taken as a correct nor complete segregation of the various types of material and labor or as an attempt to outline jurisdictional procedures. The headings shall not be deemed to limit or restrict the content, meaning or effect of such section, subsection, paragraph, provision, or part.

The organization of the Specifications into the various headings, and the arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade. Each subcontract shall be dependent upon its own definite confines, regardless of Divisions of these Specifications. No responsibility, either direct or implied, is assumed by the Owner for omissions or duplications by the Contractor or by any of his subcontractors due to real or alleged errors in arrangement of matter in Contract Documents.

1.6 DRAWINGS AND SPECIFICATIONS FOR CONSTRUCTION PURPOSES: The Contractor will be furnished a complete set of Electronic Drawings and Specifications to be used during the course of construction. If more hardcopy sets are needed, the Contractor will be required to pay the actual cost of printing and handling.

1.7 DEFINITIONS: Wherever the words hereinafter defined or pronouns used in their stead occur in the Contract Documents, they shall have the following meanings:

ADDENDA: Written or graphic instruments issued prior to the execution of the Agreement, which modify or interpret the Contract Document, Drawings, and Specifications by additions, deletions, clarifications, or corrections. Such addenda will take precedent over the position of the general drawings and specifications concerned and will be considered as part of the Contract Documents.

AGREEMENT: The Agreement represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral, including the bidding documents. The Agreement may be amended or modified by a Change Order.

BID: The written offer or proposal of the Bidder, submitted on the prescribed form, properly signed and guaranteed, to perform the work at the prices quoted by the Bidder.

BID BOND: The security furnished by the Bidder with his proposal for the Project is guaranty he will enter into a contract for the work if his proposal is accepted.

BIDDER: Any individual, firm, or corporation or combination of same submitting a bid for the work contemplated, acting directly or through a duly authorized representative.

BONDS: Bid, Performance, and Payment Bonds and other instruments of security furnished by the Contractor and his Surety in accordance with the Contract Documents.

CALENDAR DAY: Every day shown on the calendar, Sundays and holidays included.

Rebellion Road Pipe Rehabilitation Project

CHANGE ORDER: A written order to the Contractor authorizing an addition, deletion, or revision in the Work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract Price or Contract Time.

CONTRACT: The Contract Documents form the Contract. The Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, either written or oral, including the bidding documents. The Contract may be amended or modified by a Change Order.

CONTRACT DOCUMENTS: The Contract Documents consist of the Advertisement for Bids, Information for Bidders, Bid, Bid Bond, Agreement, Payment Bond, Performance Bond, the Conditions of the Contract (General, Supplemental, and other Conditions), the Drawings, the Specifications, Addenda issued prior to execution of the Contract, Notice of Award, Notice to Proceed, and Change Orders.

CONTRACT PRICE: The total monies payable to the Contractor under the terms and conditions of the Contract Documents.

CONTRACTOR: The individual, firm, or corporation with whom the Owner has executed the Agreement by which the Contractor is obligated directly, or through Subcontractors, to perform work in connection with the Project.

The Contractor is the person or organization identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Contractor means the Contractor or his authorized representative.

CONTRACT TIME: The number of calendar days stated in the Contract Documents for the completion of the Work.

DRAWINGS: The part of the Contract Documents that show the characteristics and scope of the Work to be performed and which have been prepared or approved by the Engineer.

EARTH: An excavated material or material to be excavated; all kinds of material other than rock.

ELEVATION: The figures given on the Drawings or in the other Contract Documents after the word *elevation* or abbreviation of it shall mean the distance in feet above the datum adopted by the Engineer.

ENGINEER: The person, firm, or corporation named as such in the Contract Documents and duly appointed by the Owner to undertake the duties and powers herein assigned to the Engineer, acting either directly or through duly authorized representatives.

EQUIPMENT: All machinery, together with the necessary supplies for upkeep and maintenance, and all tools and apparatus necessary for the proper construction and acceptable completion of the work.

FIELD ORDER: A written order effecting a change in the Work not involving an adjustment in the Contract Price or an extension of the Contract Time, issued by the Engineer to the Contractor during construction.

FURNISH: Furnish and install complete, in place, and ready for use.

INFORMATION FOR BIDDERS: The Notice to Contractors containing all necessary information as to provisions, requirements, date, place, and time of submitting bids.

Rebellion Road Pipe Rehabilitation Project

LATEST EDITION: The current printed document issued eight weeks or more prior to date of receipt of bids.

MAINTENANCE OF TRAFFIC: All permits, manpower, equipment, and signage required to properly notify and direct the public around and through the work zone.

MATERIALS: Any substance specified for use in the construction of the Project and its appurtenances.

NET COST: The cost to the Contractor after application of all credits and discounts (excepting only cash discounts) and without the addition of any factor for burden, overhead, or indirect cost or profit.

NOTICE OF AWARD: The written notice of the acceptance of the Bid from the Owner to the successful Bidder.

NOTICE TO PROCEED: Written communication issued by the Owner to the Contractor authorizing him to proceed with the Work and establishing the date of commencement of the Work.

OPTIMUM MOISTURE CONTENT FOR COMPACTION: The moisture content of a soil calculated on the basis of dry weight of soil at which the soil can be compacted to the approximate maximum density under a specified standard method of compaction.

OWNER: A public or quasi-public body or authority, corporation, association, partnership, or individual for whom the Work is to be performed.

PAYMENT BOND: The approved form of security furnished by the Contractor to guarantee the payment to all persons supplying labor and materials in the prosecution of the work in accordance with the terms of the Contract.

PERFORMANCE BOND: The approved form of security furnished by the Contractor to guarantee the completion of the work in accordance with the terms of the Contract.

PRECONSTRUCTION CONFERENCE: A conference following award and prior to start of construction to be attended by a duly authorized representative of the Engineer and by the responsible officials of the Contractor and other affected parties.

PROJECT: The undertaking to be performed as provided in the Contract Document.

PROPOSAL: The written offer of the Bidder, submitted on the prescribed form, properly signed and guaranteed, to perform the work at the prices quoted by the Bidder.

PROPOSAL FORM: The approved form on which the Owner requires formal bids to be prepared and submitted for the work.

PROPOSAL GUARANTY: The security furnished by the Bidder with his proposal for a Project, as guaranty he will enter into a contract for the work if his proposal is accepted.

PROVIDE: Furnish and install complete, in place, and ready for use.

RESIDENT PROJECT REPRESENTATIVE: The authorized representative of the Owner who is assigned to the Project site or any part thereof.

ROCK: An excavated material or material to be excavated; only boulders and pieces of concrete or masonry exceeding 1/2 cu. yd. in volume, or solid ledge rock which, in the opinion of the Engineer, requires, for its removal, drilling and blasting, wedging, sledging, barring, or breaking up with a power-operated tool. No soft or disintegrated rock which

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can be removed with hand pick or power-operated excavator or shovel, no loose shaken, or previously blasted rock or broken stone in rock fillings or elsewhere, and no rock exterior to the maximum limits of measurement allowed, which may fall into the excavation will be classified as rock.

SHOP DRAWINGS: All drawings, diagrams, illustrations, brochures, schedules, and other data prepared by the Contractor, a Subcontractor, manufacturer, supplier or distributor, which illustrate how specific portions of the Work shall be fabricated or installed.

SPECIALIST: An individual or firm of established reputation which is regularly engaged in, and which maintains a regular force of workmen skilled in either manufacturing or fabricating items required by the contract, installing items required by the contract, or otherwise performing work required by the contract. Where the contract specifications require installation by a specialist, that term shall also be deemed to mean either the manufacturer of the item, an individual or firm licensed by the manufacturer, or an individual or firm who will perform the work under the manufacturer's direct supervision.

SPECIFICATIONS: A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards, and workmanship.

STRUCTURES: Bridges, culverts, catch basins, drop inlets, manholes, retaining walls, cribbing, endwalls, buildings, sewers, service pipes, underdrains, foundation drains, and other miscellaneous items which may be encountered in the work, and which are not otherwise classified herein.

SUBBASE: The layer or layers of specified or selected material of designated thickness or rate of application placed on a subgrade to comprise a component of the pavement structure to support the base course, pavement, or subsequent layer of the construction.

SUBCONTRACTOR: An individual, firm, or corporation having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work at the site. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representative.

SUB-SUBCONTRACTOR: An individual, firm, or corporation having a direct or indirect contract with a Subcontractor to perform any of the Work at the site. The term Sub-subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Sub-subcontractor or an authorized representative thereof.

SUBGRADE: The top surface of a roadbed upon which the pavement structure and shoulders are constructed.

SUBSTANTIAL COMPLETION: That date as certified by the Engineer when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it is intended.

SUPPLEMENTAL CONDITIONS: Conditions of the Contract other than the General Conditions.

SUPERINTENDENT: The Contractor's authorized representative in responsible charge of the work.

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SUPPLIER: Any person or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.

SURETY: The corporation, partnership, or individual bound with and for the Contractor for the full and complete performance of the contract, and for the payment of all debt pertaining to the work.

TITLES (OR HEADINGS): The titles or headings of the sections and subsections herein are intended for convenience of reference and shall not be considered as having any bearing on their interpretation.

TRENCH PROTECTION: The falsework required to maintain the side walls of excavation from cave-ins, sloughing, or otherwise moving during excavation or while work in the trench is in progress. The protection must meet all OSHA safety standards.

WORK: All labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in the Project.

WRITTEN NOTICE: Any notice to any part of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at his last given address, or delivered in person to said party or his authorized representative on the Work.

- 1.8 **ADDITIONAL DEFINITIONS:** Wherever in the Specifications or on the Drawings, the words *as designated, as detailed, as directed, as ordered, as permitted, as prescribed, as provided, as requested, as required,* or words of like import are used, it shall be understood that the designation, detail, direction, order, permission, prescribed, provision, request, or requirement of the Engineer is intended.

Similarly, the words *approved, acceptable, satisfactory,* and words of like import shall mean approved by, acceptable to, or satisfactory to the Engineer.

- 1.9 **ABBREVIATIONS:** Where any other following abbreviations are used in the Specifications, they shall have the meaning set forth opposite each.

AA	Aluminum Association
AAMA	Architectural Aluminum Manufacturers Association
AAN	American Association of Nurserymen
AAR	Association of American Railroads
AASHTO	American Association of State Highway and Transportation Officials
AATC	American Association of Textile Chemists and Colorists
ACI	American Concrete Institute
ACPA	American Concrete Pipe Association
AED	American Equipment Dealers
AFBMA	Anti-Friction Bearing Manufacturers Association, Inc.
AFI	American Filter Institute
AGA	American Gas Association
AGC	Associated General Contractors of America, Inc.
AGMA	American Gear Manufacturers Association
AHAM	Association of Home Appliance Manufacturers
AHDGA	American Hot Dip Galvanizers Association
AIA	American Institute of Architects
AIEE	American Institute of Electrical Engineers
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
ALS	American Lumber Standards

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AMA	Acoustical Materials Association
AMCA	Air Moving and Conditioning Association
ANS	American Nuclear Society
ANSI	American National Standards Institute
APA	American Plywood Association
API	American Petroleum Institute
APWA	American Public Works Association
ARA	American Railway Association
AREA	American Railway Engineering Association
ARI	Air Conditioning and Refrigeration Institute
ASA	Acoustical Society of America
ASCE	American Society of Civil Engineers
ASLA	American Society of Landscape Architects
ASLE	American Society of Lubricating Engineers
ASME	American Society of Mechanical Engineers
ASQC	American Society for Quality Control
ASSE	American Society of Sanitary Engineers
ASTM	American Society for Testing and Materials
AVATI	Asphalt and Vinyl Asbestos Tile Institute
AWI	Architectural Woodwork Institute
AWPA	American Wood Preservers' Association
AWPI	American Wood Preservers' Institute
AWS	American Welding Society
AWWA	American Water Works Association
BHMA	Builders Hardware Manufacturers Association
CABRA	Copper and Brass Research Association
CDA	Copper Development Association
CEMA	Conveyor Equipment Manufacturers Association
CGA	Compressed Gas Association
CRSI	Concrete Reinforcing Steel Institute
CS	Commercial Standards, US Department of Commerce
CSI	Construction Specification Institute
DCDMA	Diamond Core Drill Manufacturers Association
EIA	Electronic Industries Association
FCI	Fluid Controls Institute
FGJA	Flat Glass Jobbers Association
FIA	Factory Insurance Association
FM	Factory Mutual
FMEC	Factory Mutual Engineering Corporation
FS	Federal Specification
FSPT	Federation of Societies for Paint Technology
FSS	Federal Specifications, General Services Administration
FHWA	Federal Highway Administration
GA	Gypsum Association
IBI	Insulation Board Institute
IBR	Institute of Boiler and Radiator Manufacturers
IEEE	Institute of Electric and Electronics Engineers
IES	Illuminating Engineering Society
ILIA	Indiana Limestone Institute of America, Inc.
IME	Institute of Makers of Explosives
IP	Institute of Petroleum (London)
IPC	Institute of Printed Circuits
IPCEA	Insulated Power Cable Engineers Association
ISA	Instrument Society of America
ISO	International Organization for Standardization
ITE	Institute of Traffic Engineers
LIA	Lead Industries Association
MBMA	Metal Building Manufacturers Association

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MIA	Marble Institute of America
MLA	Metal Lath Association
MLMA	Metal Lath Manufacturers Association
MPTA	Mechanical Power Transmission Association
MRIS	Maritime Research Information Service
MS	Military Specification
MSTD	Military Standard
NAAMM	National Association of Architectural Metal Manufacturers
NAFM	National Association of Fan Manufacturers
NBFU	National Board of Fire Underwriters
NBS	National Bureau of Standards
NCCLS	National Committee for Clinical Laboratory Standards
NCMA	National Concrete Masonry Association
NEC	National Electrical Code
NECA	National Electrical Contractors Association, Inc.
NEMA	National Electrical Manufacturers Association
NFC	National Fire Code
NFPA	National Fire Protection Association
NHLA	National Hardware Lumber Association
NLA	National Lime Association
NLGI	National Lubricating Grease Institute
NLMA	National Lumber Manufacturers Association
NMA	National Microfilm Association
NMWIA	National Mineral Wool Insulation Association
NPC	National Plumbing Code
NRCA	National Roofing Contractors Association
NRMCA	National Ready Mixed Concrete Association
NSF	National Sanitation Foundation
NTMA	The National Terrazzo and Mosaic Association
NWMA	National Woodwork Manufacturers Association
OSHA	Occupational Safety and Health Act
PCA	Portland Cement Association
PCI	Prestressed Concrete Institute
PDCA	Painting and Decorating Council of America
PEI	Porcelain Enamel Institute
PI	Perlite Institute
RIS	Redwood Inspection Service
RMA	Rubber Manufacturers Association
RTI	Resilient Tile Institute
RWMA	Resistance Welder Manufacturers Association
SAE	Society of Automotive Engineers
SAMA	Scientific Apparatus Makers Association
SBI	Steel Boiler Institute
SCDOT	South Carolina Department of Transportation
SCPI	Structural Clay Products Institute
SDI	Steel Deck Institute
SIS	Swedish Standards Association
SJI	Steel Joist Institute
SMA	Screen Manufacturers Association
SMACNA	Sheet Metal and Air Conditioning Contractors National Association
SPIB	Southern Pine Inspection Bureau
SPR	Simplified Practice Recommendation, US Department of Commerce
SSBC	Southern Standard Building Code
SSGC	Southern Standard Gas Code
SSPC	Steel Structures Painting Council
TAPPI	Technical Association of the Pulp and Paper Industry
TCA	Tile Council of America
TRB	Transportation Research Board

UL Underwriters' Laboratories, Inc.
WWPA Western Wood Products Association

2. OWNER'S RIGHTS AND RESPONSIBILITIES

2.1 CHANGES IN THE WORK: The Owner, without invalidating the Contract, may make changes in the Work and in the Drawings and Specifications therefore by making alterations therein, additions thereto, or omissions there from. All work resulting from such changes shall be performed and furnished under and pursuant to the terms and conditions of the Contract. If such changes result in an increase or decrease in the work to be done hereunder, or increase or decrease the quantities thereof, adjustment in compensation shall be made therefore as provided in Subsection 7.12 entitled *PAYMENT FOR EXTRA WORK*.

Except in an emergency endangering life or property, no change shall be made unless in pursuance of a written order from the Engineer authorizing the change, and no claim for additional compensation shall be valid unless the change is so ordered.

The Contractor agrees that he shall neither have nor assert any claim for, or be entitled to, any additional compensation for damages or for loss of anticipated profits on work that is eliminated.

2.2 PROJECT ENGINEER: The engineer for this project is Forsberg Engineering.

2.3 ENGINEER'S AUTHORITY: The Engineer will be the Owner's representative during the construction period and he will observe the work in progress on behalf of the Owner. The Engineer will have the authority to act on behalf of the Owner in the following matters consistent with Owner's rights and obligations as set forth in these Contract Documents:

- 2.3.1 Interpretation of Contract Documents.
- 2.3.2 Approval of samples and shop drawings.
- 2.3.3 Preparation of supplementary details and instructions.
- 2.3.4 Inspection and approval of construction work.
- 2.3.5 Preliminary approval of progress payment applications.

Any instructions the Engineer may issue the Contractor shall be adjudged an interpretation of the Contract requirements and not an act of supervision. The Engineer has no authority, nor accepts any responsibility, either direct or implied, to direct and superintend the construction operations.

The Contractor shall proceed without delay to perform the work as directed, instructed, determined, or decided by the Engineer and shall comply promptly with such directions, instructions, determinations, or decisions. If the Contractor has any objection thereto, he may require that any such direction, instruction, determination, or decision be put in writing and within 10 days after receipt of any such writing, he may file a written protest with the Owner stating clearly and in detail his objections, the reasons therefore, and the nature and amount of additional compensation, if any, to which he claims he will be entitled thereby. A copy of such protest shall be filed with the Engineer at the same time it is filed with the Owner. Unless the Contractor files such written protest with the Owner and Engineer within such 10 day period, he shall be deemed to have waived all grounds for protest of such direction, instruction, determination, or decision and all claims for additional compensation or damages occasioned thereby, and shall further be deemed to have accepted such direction, instructions, determination, or decision as being fair, reasonable, and finally determinative of his obligations and rights under the Contract.

2.4 LIABILITY OF OWNER: No person, firm, or corporation, other than the Contractor, who signed this Contract as such, shall have any interest herein or right hereunder. No claim

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shall be made or be valid either against the Owner or any agent of the Owner and neither the Owner nor any agent of the Owner shall be liable for or be held to pay any money, except as herein provided. The acceptance by the Contractor of the payment as fixed in the final estimate shall operate as and shall be a full and complete release of the Owner and of every agent of the Owner of and from any and all claims, demands, damages, and liabilities of, by, or to the Contractor for anything done or furnished for or arising out of or relating to or by reason of the work or for or on account of any act or neglect of the Owner or of any agent of the Owner or of any other person, arising out of, relating to, or by reason of the work, except the claim against the Owner for the unpaid balance, if any there be, of the amounts retained as herein provided.

2.5 RIGHTS-OF-WAY AND SUSPENSION OF WORK: The Owner shall furnish all land and rights-of-way necessary for the carrying out of this contract and the completion of the Work herein contemplated and will use due diligence in acquiring said land and rights-of-way as speedily as possible. But it is possible that all lands and rights-of-way may not be obtained as herein contemplated before construction begins, in which event the Contractor shall begin his work upon such land and rights-of-way as the Owner may have previously acquired and no claim for damages whatsoever will be allowed by reason of the delay in obtaining the remaining lands and rights-of-way. Should the Owner be prevented or enjoined from proceeding with the work, or from authorizing its prosecution, either before or after the commencement, by reason of any litigation, or by reason of its inability to procure any lands or rights-of-way for the said work, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay or to withdraw from the contract except by consent of the Owner; but time for completion of the work will be extended to such time as the Owner determines will compensate for the time lost by such delay, such determination to be set forth in writing.

2.6 SURVEYS, PERMITS, AND REGULATIONS: The Owner will furnish all boundary surveys and establish all base lines for locating the principal component parts of the Work together with a suitable number of bench marks adjacent to the Work as shown in the Contract Documents. From the information provided by the Owner, unless otherwise specified in the Contract Documents, the Contractor shall develop and make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pile locations and other working points, lines, elevations, and cut sheets. The Contractor shall carefully preserve bench marks, reference points and stakes and, in case of willful or careless destruction, he shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.

Permits and licenses of a temporary nature necessary for the prosecution of the Work shall be secured and paid for by the Contractor unless otherwise stated in the Supplemental Conditions. Encroachment permits, easements for permanent structures, and permits for permanent changes in existing facilities shall be secured and paid for by the Owner, unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the Work as drawn and specified. If the Contractor observes that the Contract Documents are at variance therewith, he shall promptly notify the Engineer in writing, and any necessary changes shall be adjusted as provided in Subsection 2.1 entitled *CHANGES IN THE WORK*.

2.7 LINES, GRADES, AND MEASUREMENTS: The Owner's Engineer will set sufficient base lines and elevations as shown on the Drawings for location of the Work. The Contractor shall employ a registered civil engineer, or land surveyor and shall require said Engineer to establish all lines, elevations, reference marks, batter boards, etc., needed by the Contractor during the progress of the work, and from time to time to verify such marks by instrument or other appropriate means.

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The Owner's Engineer shall be permitted at all times to check the lines, elevations, reference marks, batter boards, etc., set by the Contractor, who shall correct any errors in lines, elevations, reference marks, batter boards, etc., disclosed by such check. Such check shall not be construed to be an approval of the Contractor's work and shall not relieve or diminish in any way the responsibility of the Contractor for the accurate and satisfactory construction and completion of the work.

The Contractor shall make, check and be responsible for all measurements and dimensions necessary for the proper construction of, and the prevention of misfittings in, the work.

- 2.8 OWNER'S RIGHT OF AUDIT: In case the Owner agrees that a Contractor is to perform work on a cost plus basis, the Owner is to have a full and complete right to audit and make copies of Contractor's or Subcontractor's records with respect to any payment the Owner may be requested to make for any work done on a cost plus basis.
- 2.9 OWNER'S RIGHT TO SEPARATE CONTRACTS: The Owner reserves the right to let other contracts in connection with the Work under similar General Conditions. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs.

The Owner may perform additional Work related to the Project by himself, or he may let other contracts containing provisions similar to these. The Contractor will afford the other contractors who are parties to such Contracts (or the Owner, if he is performing the additional Work himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of Work and shall properly connect and coordinate his Work with theirs.

- 2.10 OWNER'S RIGHT TO DO WORK: If the Contractor should neglect to prosecute the work properly or fail to perform any provision of this contract, the Owner, after three (3) days' written notice to the Contractor may, without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor. If such expense shall exceed the unpaid balance, the Contractor shall pay the difference to the Owner on demand.

The Engineer's certificate setting forth the fair and reasonable cost of repairing, replacing, rebuilding, or restoring any damaged or defective work or equipment when performed by one other than the Contractor shall be binding and conclusive as to the amount thereof upon the Contractor.

- 2.11 OWNER'S RIGHT TO TERMINATE CONTRACT: If the Contractor should be adjudged bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver or trustee should be appointed on account of his insolvency, or if he should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he should fail to make prompt payment to Subcontractors or for material or labor, or persistently disregard laws, ordinances, or the instructions of the Owner and his representatives, or otherwise be guilty of substantial violation of any provision of the Contract, then the Owner, may, without prejudice to any other right or remedy and after giving the Contractor, and his surety, if any, seven days' written notice, terminate the employment of the Contractor and take possession of the premises and of all materials, as it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expense of finishing the work including compensation for additional engineering, managerial, and administrative services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner.

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- 2.12 SUSPENSION OF WORK, TERMINATION, AND DELAY: The Owner may suspend the Work or any portion thereof for a period of not more than ninety days or such further time as agreed upon by the Contractor, by written notice to the Contractor and the Engineer, which notice shall fix the date on which Work shall be resumed. The Contractor will resume that Work on the date so fixed. The Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension.
- 2.13 INSPECTIONS AND TESTING: If the Contract Documents, Owner's instructions, laws, ordinances, or any public authority having jurisdiction require any work to be specially tested or approved, the Contractor shall give the Owner timely notice of its readiness for observation by the Owner or inspection by another authority, and if the inspection is by another authority rather than the Owner, of the date fixed for such inspection. The required certificates of such inspection shall be secured by the Contractor. Observations by the Owner shall be promptly made, and where practicable, at the source of supply. If any work should be covered up without approval or consent of the Owner, it must, if required by the Owner, be uncovered for examination, at the Contractor's expense.
- 2.14 INSPECTION OF WORK AWAY FROM THE SITE: If the work to be done away from the construction site is to be inspected on behalf of the Owner during its fabrication, manufacture, or testing, or before shipment, the Contractor shall give notice to the Engineer of the place and time where such fabrication, manufacture, testing, or shipping is to be done. Such notice shall be in writing and delivered to the Engineer in ample time so that the necessary arrangements for the inspection can be made.
- 2.15 PIPE LOCATION: Exterior pipelines will be located substantially as indicated on the Drawings, but the right is reserved to the Owner acting through the Engineer, to make such modifications in location as may be found desirable to avoid interference with structures or for other reasons. Where fittings, etc. are noted on the Drawings, such notation is for the Contractor's convenience and does not relieve him from laying and jointing different or additional items where required.
- 2.16 PRIOR USE OR OCCUPANCY: The Owner reserves the right to use or occupy the Work or portion thereof, and to use equipment installed under the Contract, prior to final acceptance. Such use or occupancy will not constitute acceptance of the Work or any part thereof. Despite such use or occupancy, guarantee periods will not begin until the completion of all work under the Contract, unless agreement to the contrary is made in writing between the parties.
- 2.17 WEATHER CONDITIONS: In the event of temporary suspension of work, or during inclement weather, or whenever the Engineer shall direct, the Contractor will, and will cause his subcontractors to, protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the Engineer, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of his subcontractors so to protect its work, such materials shall be removed and replaced as the expense of the Contractor.
- 2.18 OWNER'S RIGHT TO CLEAN UP: If a dispute arises between the separate contractors as to their responsibility for cleaning up, the Owner may clean up and charge the cost thereof to the Contractor as the Engineer shall determine to be just.
3. CONTRACTOR'S RIGHTS AND RESPONSIBILITIES
- 3.1 ACCESS TO WORK: The Owner, the Engineer, and their officers, agents, servants, and employees plus representatives of the various participating Federal or State agencies may at any and all times and for any and all purposes, enter upon the work and site

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thereof and the premises used by the Contractor, and the Contractor shall at all times provide safe and proper facilities therefore.

- 3.2 **ACCIDENT PREVENTION:** In the performance of the contract the Contractor shall comply with the applicable provisions of the regulations issued by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act entitled *Safety and Health Regulations for Construction* (29 CFR 1518, renumbered as Part 1926). Occupational Safety and Health Standards (29 CFR Part 1910) issued by the Secretary of Labor pursuant to the Williams-Steiger Occupational Safety and Health Act of 1970 are applicable to work performed by the contractor subject to the provisions of the Act.
- 3.3 **STATED ALLOWANCES:** The Contractor shall include in his proposal the cash allowances stated in the Bid Schedule. The Contractor shall purchase the *Allowed Materials* or *Services* as directed by the Engineer. If the actual price for purchasing the *Allowed Materials* or *Services* is more or less than the *Cash Allowance*, the contract price shall be adjusted accordingly. The adjustment in contract price shall be made on the basis of the purchase price without additional charges for overhead, profit, insurance, or any other incidental expenses.
- 3.4 **ARCHAEOLOGICAL RIGHTS:** There is a possibility that items of archaeological significance may be found during the excavation of the site. In such event, the Contractor shall stop excavation in the vicinity of the find and notify the Engineer immediately; subsequent excavation work shall proceed as directed by the Engineer. All items found which are considered to have archaeological significance are the property of the Owner.
- 3.5 **AS-BUILT DRAWINGS:** The Contractor shall designate one set of Drawings for *As-Built Drawings*. The Contractor shall indicate on these drawings all field changes affecting various mechanical, electrical, piping, and other items as well as locations as actually installed. The *As-Built Drawings* shall be kept current by the Contractor. The *As-Built Drawings* shall be delivered to the Engineer upon completion and acceptance of the work. Final payment for the work will not be made until the *As-Built Drawings* have been completed and delivered as indicated above.
- 3.6 **OBLIGATIONS OF CONTRACTOR:** The Contractor shall and will, in good workmanlike manner, do and perform all work and furnish all supplies and materials, tools, machinery, equipment, transportation, supervision, temporary construction of any nature, and all other services, means, and facilities except as herein otherwise expressly specified, necessary or proper to perform and complete all work required by this Contract, within the time herein specified, in accordance with the provisions of this Contract and in accordance with the Drawings and Specifications and in accordance with the direction of the Engineer as given from time to time during the progress of the work. He shall furnish, erect, maintain, and remove such construction plant and such temporary works as may be required.

The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the Contract and Specifications, and shall do, carry on, and complete the entire work to the satisfaction of the Engineer and the Owner.

The Contractor shall check all dimensions, elevations, quantities, and instructions shown on the Drawings or given in the Specifications and shall notify the Engineer should any discrepancy of any kind be found in the Drawings, Specifications, or conditions at the site. He will not be allowed to take advantage of any discrepancy, error, or omission in the Contract Documents. If any discrepancy is discovered, the Engineer will issue full instructions pertaining thereto, and the Contractor shall carry out these instructions as if originally specified.

3.7 CLAIMS FOR ADDITIONAL COST: If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give written notice thereof within twenty days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor to the Owner before proceeding to execute the Work, except in an emergency endangering life or property, in which case the Contractor shall proceed in accordance with Subsection 3.28 entitled *PROTECTION OF WORK, PROPERTY, AND PERSONS IN AN EMERGENCY*. No such claim shall be valid unless so made. If the Owner and the Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined by the Engineer. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

3.8 CLAIMS FOR DAMAGE: If the Contractor makes claim for any damages alleged to have been sustained by breach of contract or otherwise, he shall, within ten (10) days after occurrence of the alleged breach or within ten (10) days after such damages are alleged to have been sustained, whichever date is the earlier, file with the Engineer a written, itemized statement in triplicate of the details of the alleged breach and the details and amount of the alleged damages. The Contractor agrees that unless such statement is made and filed as so required, his claim for damages shall be deemed waived, invalid, and unenforceable, and that he shall not be entitled to any compensation for any such alleged damages. Within ten (10) days after the timely filing of such statement, the Engineer shall file with the Owner one copy of the statement together with his recommendations for action by the Owner.

The Contractor shall not be entitled to claim any additional compensation for damages by reason of any direction, instruction, determination, or decision of the Engineer, nor shall any such claims be considered, unless the Contractor shall have complied in all respects with the last paragraph of Subsection 2.a entitled *ENGINEER'S AUTHORITY*, including, but not limited to, the filing of written protest in the manner and within the time therein provided.

3.9 CUTTING AND PATCHING: The Contractor shall leave all chases or openings for the installation of his own or any other contractor's or subcontractor's work, or shall cut the same in existing work, and shall see that all sleeves or forms are at the work and properly set in ample time to prevent delays. He shall see that all such chases, openings, and sleeves are located accurately and are of proper size and shape and shall consult with the Engineer and the contractors and subcontractors concerned in reference to this work.

In case of his failure to leave or cut all such openings or have all such sleeves provided and set in proper time, he shall cut them or set them afterwards at his own expense, but in so doing he shall confine the cutting to the smallest extent possible consistent with the work to be done. In no case shall piers or structural members be cut without the written consent and approval of the Engineer.

The Contractor shall carefully fit around, close up, repair, patch, and point around the work specified herein to the satisfaction of the Engineer.

All of this work shall be done by careful workmen competent to do such work and with the proper small hand tools. Power tools shall not be used except where, in the opinion of the Engineer, the type of tool proposed can be used without damage to any work or structure and without inconvenience or interference with the operation of any facility. The Engineer's approval of the type of tool shall not in any way relieve or diminish the responsibility of the Contractor for such damage, inconvenience or interference resulting from the use of such tools.

The Contractor shall not cut or alter the work of any subcontractor or any other contractor, nor permit any of his subcontractors to cut or alter the work of any other contractor or subcontractor except with the written consent of the contractor or subcontractor whose work is to be cut or altered or with the written consent of the

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Engineer. All cutting and patching or repairing made necessary by the negligence, carelessness, or incompetence of the Contractor or any of his subcontractors shall be done by or at the expense of the Contractor and shall be the responsibility of the Contractor.

- 3.10 **CLEANING UP:** The Contractor at all times shall keep the site of the work free from rubbish and debris caused by his operation under the Contract. When the work has been completed, the Contractor shall remove from the site of the work all of his plant, machinery, tools, construction equipment, temporary work, and surplus materials so as to leave the work and the site clean and ready for use.

All public streets adjacent to the site and all private ways at the site shall be kept clean of debris, spilled materials, and wet and dry earth at all times and shall be cleaned at the end of each working day. When wet earth is encountered, it shall be cleaned from the vehicles before they leave the site and enter streets and private ways.

- 3.11 **NON-COMPLIANCE WITH CONTRACT REQUIREMENTS:** In the event the Contractor, after receiving written notice from the Owner of non-compliance with any requirement of this Contract, fails to initiate promptly such action as may be appropriate to comply with the specified requirement within a reasonable period of time, the Owner shall have the right to order the Contractor to stop any or all work under the Contract until the Contractor has complied or has initiated such action as may be appropriate to comply within a reasonable period of time. The Contractor will not be entitled to any extension of contract time or payment for any costs incurred as a result of being ordered to stop work for such cause.

- 3.12 **OVERALL PROJECT COORDINATION:** The Contractor shall coordinate all Work of his Contract to produce the required finished Project in accordance with the Contract Documents. Special attention shall be given to the submission of shop drawings, samples, color charts, and requests for substitution within the specified time; furnishing the proper shop drawings to Subcontractors and material suppliers, whose work and equipment is affected by and related thereto; and the furnishing of all information concerning location, type, and size of built-in equipment and materials and equipment utilities. This coordination is in addition to all other coordination requirements called for in the technical sections of the Specifications.

- 3.13 **COMMUNICATIONS:** The Contractor shall forward all communications to the Owner through the Engineer.

- 3.14 **NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

- 3.15 **DRAWINGS AND SPECIFICATIONS AT THE SITE:** The Contractor shall maintain at the site one complete set of all Drawings, Specifications, Addenda, approved Shop Drawings, Change Orders, and other Modifications, in good and readable condition and marked to record all changes made during construction. These shall be available to the Engineer. The Drawings, marked to record all changes made during construction, shall be delivered to the Engineer for the Owner upon completion of the work.

- 3.16 **EMPLOY COMPETENT PERSONS:** The Contractor shall endeavor to employ only competent persons on the Work. Whenever the Engineer notifies the Contractor in writing that in his opinion any person on the Work is incompetent, unfaithful, disorderly, or otherwise unsatisfactory, or not employed in accordance with the provisions of the

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Contract, such person shall be discharged from the Work and shall not again be employed on it, except with the written consent of the Engineer. Provided, however, that the failure of the Owner or Engineer to object to an employee is not to be considered acknowledgment or approval of the employee's competence by the Engineer or Owner.

- 3.17 **EMPLOY SUFFICIENT LABOR AND EQUIPMENT:** If, in the judgment of the Engineer, the Contractor is not employing sufficient labor, plant, equipment, or other means to complete the work within the time specified, the Engineer may, after giving written notice, require the Contractor to employ such additional labor, plant, equipment, and other means as the Engineer may deem necessary to enable the work to progress properly.
- 3.18 **EXISTING STRUCTURES:** Where the dimensions and locations of existing structures are of importance in the installation or connection of any part of the Work, the Contractor shall verify such dimensions and locations in the field before the fabrication of any material or equipment which is dependent on the correctness of such information.
- 3.19 **INDEMNIFICATION:** The Contractor will indemnify and hold harmless the Owner and the Engineer and their agents and employees from and against all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use resulting there from; and is caused in whole or in part by any negligent or willful act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable.

In any and all claims against the Owner or the Engineer, or any of their agents or employees, by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by a limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any Subcontractor under workmen's compensation acts, disability benefit acts, or other employee benefits acts.

- 3.20 **INTOXICATING LIQUORS:** The Contractor shall not sell and shall neither permit nor suffer the introduction or use of intoxicating liquors upon or about the work.
- 3.21 **LEGAL ADDRESS OF CONTRACTOR:** The Contractor's business address and his office at or near the site of the work are both hereby designated as places to which communications may be delivered. The depositing of any letter, notice, or other communication in a postpaid wrapper directed to the Contractor's business address in a post office box regularly maintained by the US Postal Service or the delivery at either designated address of any letter, notice, or other communication by mail or otherwise shall be deemed sufficient service thereof upon the Contractor, and the date of such service shall be the date of receipt. The first named address may be changed at any time by an instrument in writing, executed and acknowledged by the Contractor, and delivered to the Engineer. Service of any notice, letter, or other communication upon the Contractor personally shall likewise be deemed sufficient service.
- 3.22 **MUTUAL RESPONSIBILITY OF CONTRACTORS:** The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall properly connect and coordinate his Work with theirs.

If any part of the Contractor's Work depends for proper execution or results upon the work of any other separate contractor, the Contractor shall inspect and promptly report to the Owner any apparent discrepancies or defects in such work that render it unsuitable for such proper execution and results. Failure of the Contractor so to inspect and report

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shall constitute an acceptance of the other contractor's work as fit and proper to receive his Work, except as to defects which may develop in the other separate contractor's work after the execution of the Contractor's Work. To ensure proper execution of the subsequent work, the Contractor shall measure work already in place and shall at once report to the Owner any discrepancy between the executed work and the Contract Documents.

Should the Contractor cause damage to any separate contractor on the work, the Contractor agrees, upon due notice, to settle with such contractor by agreement or arbitration, if he will so settle. If such separate contractor sues the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor, who shall defend such proceedings at Contractor's expense, and if any judgment against the Owner arises there from, the Contractor shall pay or satisfy it and pay all costs incurred by the Owner.

3.23 NIGHT, LEGAL HOLIDAYS, AND SUNDAY WORK: No work shall be done at night, legal holidays, or on Sunday except:

3.23.1 Usual protective work, such as pumping and the tending of lights and fires;

3.23.2 Work done in case of emergency threatening injury to persons or property;

3.23.3 When provided for under Supplemental Conditions as herein specified;

3.23.4 If all of the conditions set forth in the next paragraph below are met.

No work other than that included in 3.23.1, 3.23.2, and 3.23.3 above, shall be done at night except when:

3.23.4.1 In the judgment of the Engineer, the work will be of advantage to the Owner and can be performed satisfactorily at night;

3.23.4.2 The work will be done by a crew organized for regular and continuous night work;

3.23.4.3 The Engineer has given written permission for such night work.

Any work necessary to be performed after regular hours, on Sundays, or Legal Holidays, shall be performed without additional expense to the Owner.

3.24 OCCUPYING PRIVATE LAND: The Contractor shall not (except after written consent from the proper parties) enter or occupy with men, tools, materials, or equipment, any land outside the rights-of-way or property of the Owner. A copy of the written consent shall be given to the Engineer prior to occupation of private land.

3.25 PERMITS AND RESPONSIBILITIES: The Contractor shall, without additional expense to the Owner, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal, State, and municipal laws, codes, and regulations, in connection with the prosecution of the work. He shall be similarly responsible for all damages to persons or property that occur as a result of his fault or negligence. He shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire construction work, except for any completed unit of construction there of which theretofore may have been accepted.

3.26 PRECAUTIONS DURING ADVERSE WEATHER: During adverse weather and against the possibility thereof, the Contractor shall take all necessary precautions so that the Work may be properly done and satisfactory in all respects. When required, protection

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shall be provided by use of tarpaulins, wood and building-paper shelters, or other approved means.

During cold weather, materials shall be preheated, if required, and the materials and adjacent structure into which they are to be incorporated shall be made and kept sufficiently warm so that a proper bond will take place and a proper curing, aging, or drying will result. Protected spaces shall be artificially heated by approved means that will result in a moist or a dry atmosphere according to the particular requirements of the work being protected. Ingredients for concrete and mortar shall be sufficiently heated so that the mixture will warm throughout when used.

The Engineer may suspend construction operations at any time when, in his judgment, the conditions are unsuitable or the proper precautions are not being taken, whatever the weather may be, in any season. The Contractor agrees that he shall not have or assert any claim for or be entitled to any additional compensation or damages on account of any such suspension.

- 3.27 PROTECTION OF WORK, PROPERTY, AND PERSONS: The Contractor will be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. He will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury, or loss to all employees on the Work and other persons who may be affected thereby, all the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

The Contractor will comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction. He will erect and maintain as required by the conditions and progress of the Work, all necessary safeguards for safety and protection. He will notify owners of adjacent utilities when prosecution of the Work may affect them. The Contractor will remedy all damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable, except damage or loss attributable to the fault of the Contract Documents or to the acts or omissions of the Owner or the 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 the Contractor.

- 3.28 PROTECTION OF WORK, PROPERTY, AND PERSONS IN AN EMERGENCY: In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Engineer or Owner, shall act to prevent threatened damage, injury, or loss. He will give the Engineer prompt Written Notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved.

- 3.29 PROTECTION AGAINST WATER AND STORM: The Contractor shall take all precautions necessary to prevent damage to the Work by storms or by water entering the site of the Work directly, tidally, or through the ground. In case of damage by storm or water, the Contractor shall at his own cost and expense make such repairs or replacements or rebuild such parts of the Work as the Engineer may require in order that the finished work may be completed as required by the Contractor.

- 3.30 PROTECTION OF EXISTING VEGETATION, STRUCTURES, UTILITIES, AND IMPROVEMENTS: The Contractor will preserve and protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the site of the work which is not to be removed and which does not reasonably interfere with the construction work. Care shall be taken in

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removing trees authorized for removal to avoid damage to vegetation to remain in place. Any limbs or branches of trees broken during such operations or by the careless operation of equipment or by workmen, shall be trimmed with a clean cut and painted with an approved tree pruning compound as approved by the Engineer.

The Contractor will protect from damage all existing improvements or utilities at or near the site of the work, the location of which is made known to him, and will repair or restore any damage to such facilities resulting from failure to comply with the requirements of this Contract or the failure to exercise reasonable care in the performance of the Work. If the Contractor fails or refuses to repair any such damage promptly, the Owner may have the necessary work performed and charge the cost thereof to the Contractor.

The Contractor shall protect the trunks of trees adjacent to his work with the tree protection barricades shown in details. Tree protection shall be constructed to protect trees from injury from piled material, from equipment, from his operation, or otherwise due to his work. Excavating machinery and cranes shall be of suitable type and shall be operated with care to prevent injury to trees not to be cut and particularly to overhanging branches and limbs.

On paved surfaces, the Contractor shall not use or operate tractors, bulldozers or other power-operated equipment, the treads or wheels of which are so shaped as to cut or otherwise injure such surfaces.

3.31 RESTORATION OF PROPERTY: All existing surfaces, including lawns, grassed, and planted areas which have been injured by the Contractor's operations, shall be restored to a condition at least equal to that in which they were found immediately before work was begun. Suitable materials and methods shall be used for such restoration. All restored plantings shall be maintained by cutting, trimming, fertilizing, etc., until acceptance. The restoration of existing property or structures shall be done as promptly as practicable and shall not be left until the end of construction period.

3.32 INTERFERENCE WITH AND PROTECTION OF STREETS: The Contractor shall not close or obstruct any portion of a street, road, or private way without obtaining permits therefore from the proper authorities. If any street, road, or private way shall be rendered unsafe by the Contractor's operations, he shall make such repairs or provide such temporary ways or guards as shall be acceptable to the proper authorities. See Section 4 – Supplemental Conditions.

Streets, roads, private ways, and walks not closed shall be maintained passable and safe by the Contractor, who shall assume and have full responsibility for the adequacy and safety of provisions made therefore.

The Contractor shall, at least 24 hours in advance, notify the highway, police, and fire departments in writing, with a copy to the Engineer, if the closure of a street or road is necessary. He shall cooperate with the police department in the establishment of alternate routes and shall provide adequate detour signs, plainly marked and well lighted, in order to minimize confusion.

3.33 TRAFFIC CONTROL: Where control of traffic is required for public safety, the Contractor shall provide an adequate number of flagmen employed at his own expense.

3.34 CONSTRUCTION DRAINAGE: The Contractor shall furnish all labor, materials and necessary equipment for the temporary control of surface water, tidal flow, and seepage water during construction and keep all excavations, pits, and trenches free from water at all times.

The Contractor shall furnish and operate pumps and other equipment required. Dikes and ditches shall be constructed around excavations and elsewhere as necessary to prevent

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surface water from flooding the excavations or standing in areas adjacent to excavations, in work areas, or in material storage areas. The Contractor shall take all necessary precautions to protect adjacent areas and properties at points other than that which would be considered the natural flow, prior to construction, without the expressed consent of the Owner in writing with a copy to the Engineer. He shall take steps to prevent the erosion of soil, earth, and other material and the conduction of the eroded materials onto adjacent properties and shall be responsible for the removal of such materials and the restoration of adjacent areas to their original condition.

- 3.35 RETURN OF DRAWINGS: All copies of Drawings, Specifications, and other Documents furnished by the Owner or the Engineer to the Contractor may be used only in connection with the prosecution of the Work and shall be returned by the Contractor upon completion of the Work.
- 3.36 SITE INVESTIGATION: The Contractor acknowledges that he has investigated and satisfied himself as to the conditions affecting the Work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, water table, tides, or similar physical conditions at the site, the confirmation and conditions of the ground, the character of equipment and facilities needed preliminary to and during prosecution of the Work. The Contractor further acknowledges that he has satisfied himself as to character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Owner, as well as from information presented by the Drawings and Specifications made a part of this Contract. Any failure by the Contractor to acquaint himself with the available information will not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing the work. The Owner assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the Owner.
- 3.37 SOIL EROSION AND SEDIMENT CONTROL: The Contractors attention is directed to the fact that unless exposed earth areas are properly cared for during construction, they may result in substantial sedimentation damage downstream from the construction area. The Contractor shall be responsible for conducting his site grading and drainage operations in such manner as to prevent excessive soil erosion of the construction site work areas. He shall at all times provide satisfactory means to prevent the movement and washing of soil onto pavements or into adjacent ditches, swales, inlets, and drainage pipes, to avoid the possibility of these structures becoming clogged with soil. He shall promptly repair all areas that may become eroded and shall clear drainage ditches, swales, and structures of siltation. The Contractor will indemnify and save harmless the Owner and Engineer from and against any and all claims, demands, fines, or assessments, including attorneys' fees and cost of defense arising out of or caused by the Contractor's failure to provide soil erosion and sediment control.
- 3.38 SUBSURFACE CONDITIONS: The applicable provisions governing Subsurface Conditions are contained in the Contract Documents.
- 3.39 SUBCONTRACTING: The Contractor may utilize the services of specialty Subcontractors on those parts of the Work, which, under normal contracting practices, are performed by specialty Subcontractors. The Contractor shall, without additional expense to the Owner, utilize the services of specialty subcontractors on those parts of the work specified to be performed by specialty subcontractors.

The Contractor shall not award any work to any subcontractor without prior written approval of the Owner, which approval will not be given until the Contractor submits to the Owner a written statement concerning the proposed award to the subcontractor, which statement shall contain such information as the Owner may require. No request

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for payment will be approved before this list has been received and reviewed by the Owner.

The Contractor shall not award Work to Subcontractors, in excess of fifty percent (50%) of the Contract Price, without prior written approval of the Owner.

The Contractor shall be fully responsible to the Owner for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts or omissions of persons directly employed by him.

The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the Work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provisions of the Contract Documents.

If any other contractor or any subcontractor of any such other contractor shall suffer or claim to have suffered loss, damage, or delay by reason of the acts or omissions of the Contractor or of any of his subcontractors, the Contractor agrees to assume the defense against any such claim and to reimburse such other contractor or subcontractor for such loss or damage. The Contractor agrees to and does hereby indemnify and save harmless the Owner from and against any and all claims by such other contractors or subcontractors alleging such loss, damage, or delay and from and against any and all claims, demands, costs, and expenses, including attorneys' fees, arising out of, relating to, or resulting from such claims.

The Contractor shall be responsible for the coordination of the trades, subcontractors, and material men engaged upon his work. The Owner or Engineer will not undertake to settle any differences between the Contractor and his subcontractors or between subcontractors. If any Subcontractor on the project, in the opinion of the Engineer, proves to be incompetent or otherwise unsatisfactory, he shall be replaced if and when directed in writing.

- 3.40 SUPERVISION: The Contractor shall keep on his work, during its progress, a competent superintendent and any necessary assistants, all being satisfactory to the Owner. The superintendent shall not be changed except with the consent of the Owner, unless the superintendent proves to be unsatisfactory to the Contractor and ceases to be in his employ. The superintendent shall represent the Contractor in his absence and all directions given to him shall be as binding as if given to the Contractor. Important directions shall be confirmed in writing to the Contractor. Other directions shall be so confirmed on written request in each case. The Owner shall not be responsible for the acts or omissions of the superintendent or his assistants.

The Contractor shall give efficient supervision to the Work, using his best skill and attention. He shall carefully study and compare all Drawings, Specifications, and other instructions and shall at once report to the Owner any error, inconsistency, or omission which he may discover.

- 3.41 TAXES: The Contractor shall promptly pay federal, state, and local taxes which may be assessed against him in connection with the work or his operations under the Agreement and/or the other Contract Documents, including, but not limited to, taxes attributable to the purchase of materials and equipment, to the performance of services, and the employment of persons in the prosecution of the work.

- 3.42 TEMPORARY HEAT: The Contractor shall provide temporary heat whenever necessary to protect all Work and materials against injury from dampness and cold and to dry out moisture from the building. Fuel, equipment, and method of heating shall be satisfactory to the Owner's Insurer and the Engineer.

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Temporary heating apparatus shall be installed and operated in such a manner that finished work will not be damaged thereby.

3.43 SANITARY FACILITIES: The Contractor shall provide adequate sanitary facilities for the use of those employed on the Work. Such facilities shall be made available when the first employees arrive on the site of the Work, shall be properly secluded or screened from public observations, and shall be constructed and maintained during the progress of the Work in suitable numbers and at such points and in such manner as may be required or approved. The Contractor shall maintain the sanitary facilities in a satisfactory and sanitary condition at all times and shall enforce their use. He shall rigorously prohibit the committing of nuisances on the site of the work, on the lands of the Owner, or on adjacent property. The Owner and the Engineer shall have the right to inspect such facilities at all times to determine whether or not they are being properly and adequately maintained.

3.44 TEMPORARY UTILITIES: The Contractor shall make arrangements for and furnish as a part of the Contract, all electricity, water, lighting, and other utilities needed to do the Work called for by the Contract. Any separate contractors having a contract with the Owner shall make arrangements for and share the cost with the Contractor for the use of the required utilities on a pro rated schedule based on an agreed basis. All Electrical Work shall comply with the National Electrical Code.

The Contractor shall provide and pay for all temporary wiring, switches, connections, and meters. The Contractor shall provide sufficient electric lighting so that all work may be done in a workmanlike manner when there is not sufficient daylight.

3.45 UNCOVERING AND CORRECTION OF WORK: The Engineer shall be furnished by the Contractor with every reasonable facility for examining and inspecting the work and for ascertaining that the work is being performed in accordance with the requirements and intent of the Contract, even to the extent of requiring the uncovering or taking down of portions of finished work by the Contractor.

Should the work thus uncovered or taken down prove satisfactory, the cost of uncovering or taking down and the replacement thereof shall be considered as extra work unless the original work was done in violation of the Contract in point of time or in the absence of the Engineer or his inspector and without his written authorization, in which case said cost shall be borne by the Contractor. Should the work uncovered or taken down prove unsatisfactory, said cost shall likewise be borne by the Contractor.

The inspection of the work shall not relieve the Contractor of any of his obligations to perform and complete the work as required by the Contract. Defective work shall be corrected and unsuitable materials, equipment, apparatus, and other items shall be replaced by the Contractor, notwithstanding that such work, materials, equipment, apparatus, and other items may have been previously overlooked or accepted or estimated for payment. If the work or any part thereof shall be found defective at any time before the final acceptance of the work, the Contractor shall forthwith make good such defect in a manner satisfactory to the Engineer; if any materials, equipment, apparatus, or other items brought upon the site for use or incorporation in the work, or selected from the same, are condemned by the Engineer as unsuitable or not in conformity with the Specifications or any of the other Contract Documents, the Contractor shall forthwith remove such materials, equipment, apparatus, and other items from the site of the work and shall at his own cost and expense make good and replace the same and any material furnished by the Owner which shall be damaged or rendered defective by the handling or improper installation by the Contractor, his agents, servants, employees, or subcontractors.

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If the Owner deems it inexpedient to correct work injured or done not in accordance with the Contract, an equitable deduction from the Contract Price shall be made therefore.

- 3.46 **COOPERATION WITH UTILITIES:** The Owner will notify all utility companies, all pipe line owners, or other parties affected, and endeavor to have all necessary adjustments of the public or private utility fixtures, pipe lines, and other appurtenances within or adjacent to the limits of construction, made as soon as practicable.

Water lines, gas lines, wire lines, sewer lines, water and gas meter boxes, water and gas valve boxes, manholes, light standards, cableways, signals, and all other utility appurtenances within the limits of the proposed construction which are to be relocated or adjusted are to be moved by the Owners under separate agreement, except as otherwise provided for in the Supplemental Conditions or as noted on the Drawings.

The Drawings will show all known utilities located within the limits of the contract according to information obtained. The accuracy of the Drawings, in this respect, is not guaranteed by the Owner. The Contractor shall have considered in his bid all of the permanent and temporary utility appurtenances in the present or relocated position. No additional compensation will be allowed for any delays, inconveniences, or damages sustained by him due to any interference from the said utility appurtenances or the operation of moving them.

Unless otherwise provided, the cost of temporary rearrangement of utilities made only in order to facilitate the construction of the work will be borne by the Contractor.

- 3.47 **VERIFICATION OF DIMENSIONS AND ELEVATIONS:** Dimensions and elevations indicated on the Drawings in reference to existing structures, location of utilities, sewer inverts, or other information on existing facilities, are the best available data obtainable but are not guaranteed by the Engineer. The Engineer will not be responsible for their accuracy. Before proceeding with any work dependent upon the data involved, the Contractor shall field check and verify all dimensions, grades, inverts, lines, elevations, or other conditions of limitations at the site of the work to avoid construction errors or damage to existing facilities. If any work is performed by the Contractor, or any subcontractors, prior to adequate verification of applicable data, any resultant extra cost for adjustment of work necessary to conform to existing facilities, shall be assumed by the Contractor without reimbursement or compensation by the Owner.

If the Contractor, in the course of the work, finds any discrepancy between the Drawings and the physical conditions of the locality, or any errors or omissions in the Drawings or in the layout as given by survey points and instructions, he shall immediately inform the Engineer, in writing. The Engineer will promptly investigate the reported conditions and issue such instructions as may be necessary for the proper execution of the work. Any work done after such discovery and prior to receipt of such instructions shall be at the risk of the Contractor.

4. **MATERIALS, EQUIPMENT AND WORKMANSHIP**

- 4.1 **CHEMICAL USAGE:** All chemicals used during project construction or furnished for project operation, whether herbicide, pesticide, disinfectant, polymer, reactant, or of other classification, shall show approval of either EPA or USDA. The use of all such chemicals and disposal of residues shall be in strict conformance with manufacturer and USDA instructions.
- 4.2 **CONTRACTOR'S TITLE TO MATERIALS:** No materials or supplies for the Work shall be purchased by the Contractor or by any subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him, in the Work, free from all liens, claims, or encumbrances.

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- 4.3 CORRECTION OF WORK BEFORE COMPLETION: The Contractor shall promptly remove from the premises all work condemned by the Owner as failing to conform to the Contract Documents, whether incorporated or not and the Contractor shall promptly replace and re-execute his own work in accordance with the Contract and without expense to the Owner and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement. The fact that the Engineer may have previously overlooked such defective work shall not constitute an acceptance of any part of it.

If the Contractor does not remove such condemned work within a reasonable time, fixed by written notice, the Owner may remove it, and after storing it at the job site for 30 days, due written notice thereof being given the Contractor, the Owner may offer the material for sale and removal from the premises. Net proceeds from such sale shall be for the Contractor's credit against the *Owner's Right to Do Work*. If the material has no sale value, the Owner may remove it from the premises and/or otherwise dispose of it. The costs of such disposition shall be deducted from payments to the Contractor as provided in Subsection 2.10 entitled *OWNER'S RIGHT TO DO WORK*.

- 4.4 CORRECTION OF WORK AFTER COMPLETION: The Contractor shall remedy any defects due to faulty materials or workmanship and pay for any damage to other work resulting there from which shall appear within a period of one year from the date of final acceptance of the work except where longer periods are specified and in accordance with the terms of any special guarantees provided in the Contract.

- 4.5 CORRECTIONS OF WORK AFTER GUARANTEE PERIOD: It shall be the responsibility of the Contractor to permanently correct all defective items called to his attention within the guarantee period, whether such correction be made within the guarantee period or not. The Contract shall not be fully performed until such permanent corrections are made.

- 4.6 GENERAL GUARANTEE: For a period of at least one year after final acceptance, or longer if required by law, or by a special warranty provision of the CONTRACT DOCUMENTS, the CONTRACTOR warrants the fitness and soundness of all work done and for materials and equipment put in place. Neither the Final Certificate of Payment nor any other provision in the said CONTRACT shall constitute an acceptance of WORK not done in accordance with the CONTRACT DOCUMENTS, or relieve the CONTRACTOR of liability in respect to any express or implied warranties for faulty materials or workmanship. If within one year after the date of final 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, any WORK is found to be defective, the CONTRACTOR shall promptly, without cost to the OWNER, and in accordance with the OWNER'S written instructions, either correct such defective WORK, or if it has been rejected by the OWNER, remove it from the site and replace it with non-defective WORK. If the 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, the 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 the CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service before final 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.

- 4.6.1 If in fulfilling the requirements of the CONTRACT or of any guarantee embraced therein or required thereby, the CONTRACTOR disturbs any work guaranteed under another contract, he shall restore such disturbed work to a condition

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satisfactory to the OWNER, and shall guarantee such restored work to the same extent as it was guaranteed under such other contract.

4.6.2 If the CONTRACTOR, after notice, fails to proceed promptly to comply with the terms of the guarantee, the OWNER may have the defects corrected and the CONTRACTOR shall be liable for all expenses incurred.

4.6.3 All special guarantees applicable to definite parts of the work that may be stipulated in the specifications or other papers forming a part of the CONTRACT shall be subject to the terms of this paragraph during the first year of the life of such special guarantee.

4.7 **HANDLING AND DISTRIBUTION:** The Contractor shall handle, haul, and distribute all materials and all surplus materials on the different portions of the work as necessary or required; shall provide suitable and adequate storage room for materials and equipment during the progress of the work, and be responsible for the protection, loss of, or damage to materials and equipment furnished by him, until the final completion and acceptance of the work.

Storage and demurrage charges by transportation companies and vendors shall be borne by the Contractor.

4.8 **MANUFACTURER'S DIRECTIONS:** All manufactured articles, material, and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned as directed by the manufacturers, unless herein specified to the contrary.

If the specifications or plans are contrary to the manufacturer's directions, the manufacturer shall be contacted by the Contractor before proceeding with the work and the Engineer advised if the manufacturer has any objections to the specified application.

4.9 **MATERIALS, SERVICES, AND FACILITIES:** It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all labor, supplies and materials, tools, machinery, equipment, transportation, supervision, temporary construction of any nature, and all other services, means, and facilities of any nature whatsoever necessary to execute, complete, and deliver the Work within the specified time.

Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the Work. Stored materials and equipment to be incorporated in the Work shall be located so as to facilitate prompt inspection.

Materials, supplies, and equipment shall be in accordance with samples submitted by the Contractor and approved by the Engineer.

4.10 **MISCELLANEOUS ITEMS:** The work to be done by the Contractor, specified and enumerated under this Contract, shall include any minor details of the Work not specifically mentioned in the Specifications or shown on the Drawings, but obviously necessary for the proper completion of the Work, which shall be considered incidental and as being a part of and included with the Work for which prices are given in the Bid. The Contractor will not be entitled to any additional compensation therefore.

Miscellaneous items and accessories which are not specifically mentioned, but which are essential to produce a complete and properly operating installation or usable structure or plant, providing the indicated function, shall be furnished and installed without change in the contract price. Such miscellaneous items and accessories shall be of the same quality standards, including material, style, finish, strength, class, weight, and other applicable characteristics as specified for the major component of which the miscellaneous item or accessory is an essential part, and shall be approved by the

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Engineer before installation. The above requirement is not intended to include major components not covered by or inferable from the Drawings and Specifications.

- 4.11 MISTAKES OF CONTRACTOR: The Contractor shall promptly correct and make good any and all defects, damages, omissions, or mistakes, for which he and/or his agents, servants, employees, or subcontractors are responsible, and he shall pay to the Owner all costs, expenses, losses, and damages resulting there from or by reason thereof as determined by the Engineer.
- 4.12 PROTECTION AGAINST ELECTROLYSIS: Where dissimilar metals are used in conjunction with each other, or against concrete surfaces, suitable insulation shall be provided between adjoining surfaces so as to eliminate direct contact and any resultant electrolysis. The insulation shall be bituminous impregnated felt, heavy bituminous coatings, nonmetallic separators or washers, or other approved materials.
- 4.13 RIGHT TO MATERIALS: Nothing in the Contract shall be construed as vesting in the Contractor any right of property in the materials, equipment, apparatus and other items furnished after they have been installed or incorporated in or attached or affixed to the work or the site, but all such materials, equipment, apparatus and other items shall, upon being so installed, incorporated, attached, or affixed, become the property of the Owner.
- 4.14 ROYALTIES AND PATENTS: The Contractor shall pay all applicable royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified, but if the Contractor has information that the process or article specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner in writing.
- 4.15 SUBMITTAL SCHEDULE: Within twenty (20) days after execution and delivery of the Contract, the Contractor shall prepare and deliver to the Engineer a Submittal Schedule. This includes a list of all submittals required under the Contract. The list shall identify each major group of shop drawings, coordination drawings, and schedules and each sample and the planned submission date for each.

After the Engineer's review of the list of submittals, the Engineer will meet with the Contractor for a joint review and correction and adjustment, as necessary, for agreement on the submittal. In addition, at the meeting the duration of the review period for each submittal will be established. The Contractor's planned submission date for each submittal shall allow no less than fifteen (15) working days for review and appropriate action before approval of the submittal becomes critical to the progress of the Contractor's work. Within five (5) calendar days after the joint review, the Contractor shall make any necessary revisions to the list of submittals, including durations of the review periods, in accordance with the agreements reached during the joint review and submit two revised copies to the Engineer. No application for partial payment will be approved until the submitted schedule is approved.

- 4.16 SHOP DRAWINGS: Shop Drawings are drawings, diagrams, illustrations, schedules, performance charts, brochures, and other data which are prepared by the Contractor or any Subcontractor, manufacturer, supplier or distributor, and which illustrate some portion of the Work. It shall be the Contractor's responsibility to furnish Shop Drawings as required by the technical specifications or as requested by the Engineer. These submittals must be made no later than is required by the submittal schedule.

Shop Drawings shall show the principal dimensions, weight, structural and operating features, space required, clearances, type and/or brand of finish or shop coat, grease fittings, etc., depending on the subject of the drawing. When it is customary to do so, when

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the dimensions are of particular importance, or when so specified, the drawings shall be certified by the manufacturer or fabricator, as correct for the Contract.

When so specified or if considered by the Engineer to be acceptable, manufacturer's specifications, catalog data, descriptive manner, illustrations, etc., may be submitted for approval in place of shop and working drawings. In such case the requirements shall be as specified for shop and working drawings, insofar as applicable except that the submission shall be in quadruplicate.

The Contractor shall be responsible for the prompt and timely submittal of all shop and working drawings so that there shall be no delay to the work due to the absence of such drawings.

The Contractor shall check the Shop Drawings, shall coordinate them (by means of coordination drawings wherever required) with the work of all trades involved before submission and shall indicate thereon his approval. Drawings and schedules submitted without evidence of the Contractor's approval may be returned for resubmission.

By approving and submitting Shop Drawings, the Contractor thereby represents that he has determined and verified all field measurements, field construction criteria, materials, catalog numbers, and similar data, or will do so, and that he has checked and coordinated each Shop Drawing with the requirements of the Work and of the Contract Documents.

If drawings or schedules show variations from the contract requirements because of standard shop practice or for other reasons, the Contractor shall describe such variations in his letter of transmittal. If acceptable, the Engineer may approve any or all such variations and issue an appropriate change order. If the Contractor fails to describe such variations he shall not be relieved of the responsibility for executing the work in accordance with the Contract, even though such drawings or schedules may have been approved.

Each Shop Drawing or Coordination Drawing shall have a blank area, five by five inches, located adjacent to the title block. The title block shall display the following:

- Number and Title of Drawing
- Date of Drawing
- Revision Number and Date (if applicable)
- Project Title
- Name of Project Building or Facility
- Name of Contractor
- Name of Subcontractor (if applicable)
- Clear Identity of Contents and Location of Work

Prior to submitting drawings to the Engineer, the Contractor shall check thoroughly all such drawings to satisfy himself that the subject matter thereof conforms to the Drawings and Specifications in all respects. All drawings that are correct shall be marked with the date, checker's name, and indication of the Contractor's approval, and then shall be submitted to the Engineer; other drawings shall be returned for correction.

The Contractor shall stamp all drawings to be submitted to the Engineer for approval. The rubber stamp shall incorporate the following items:

PROJECT TITLE _____
CONTRACTOR'S NAME _____
APPROVED BY _____ DATE _____
SPECIFICATION SECTION _____ TRANSMITTAL NO. _____

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The review of Shop Drawings will be general only and shall not relieve or in any respect diminish the responsibility of the Contractor for details of design, dimensions, etc., necessary for proper fitting and construction of the work as required by the Contract and for achieving the result and performance specified there under.

Should the Contractor submit for approval equipment that requires modifications to the structures, piping, layout, etc., detailed on the Drawings, he shall also submit for approval details of the proposed modifications. If such equipment and modifications are approved, the Contractor, at no additional cost to the Owner, shall do all work necessary to make such modifications. Required structural changes shall be designed and detailed by an Engineer registered in the state in which the project will be constructed. Drawings shall be signed and show registration number or may have seal affixed.

Submission of Shop Drawings shall be accompanied by a copy of a transmittal letter containing the Project name, Contractor's name, number of drawings, titles, specifications section, and other pertinent data. The submittal shall include the following:

- Four (4) legible copies of Shop Drawings or printed matter

The review of the Shop Drawings will be performed by the Engineer as follows:

- When the submittal fully conforms to the Contract Drawings and Specifications, the Engineer will approve it. The reproducible of each drawing or page of approved submittals will be stamped approved, signed, dated, and returned to the Contractor. Changes shall not be made to the approved drawings by the Contractor. If the Contractor desires to make any change from approved drawings, or pages of approved submittals, he shall notify the Engineer in writing that the approved material has been withdrawn and shall submit the substitution set in accordance with the above procedure.
- When the submittal clearly does not conform to the Contract Drawings and Specifications, the Engineer will disapprove it by stamping it *Rejected*. Rejected submittals shall be corrected and resubmitted within fourteen (14) calendar days from the date of rejection. Rejected submittals shall not be released for any work.
- When the submittal has only minor deviations from the Contract Drawings and Specifications, the Engineer will note the deviations and omissions as may be appropriate and approve the submittal subject to the notations by stamping it *Approved as Noted*. Approved as Noted submittals may be released for fabrication of work at the Contractor's risk; in any event the submittal shall be corrected and resubmitted for approval within fourteen (14) calendar days from the date of approval as noted.

The Contractor shall be responsible for delays resulting from the rejection or approval as noted of incomplete, inadequate, incorrect, or otherwise unacceptable submittals.

The Contractor shall assure that only drawings and pages of printed material bearing the Engineer's *Approved* stamp are allowed on the job site.

The Contractor shall submit, at the completion of the Project, one set of all reviewed and correct shop drawings, catalog cuts, and descriptive literature for all Work previously submitted. These sets shall be sent to the Engineer for the Owner before final Certificate of Payment is issued.

- 4.17 OPERATING AND MAINTENANCE MANUALS: One copy of each required Operating and Maintenance Manual must be submitted to the Engineer with the first submittal of shop drawings. Five additional copies of each required Operating and Maintenance

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Manual must be submitted to the Engineer within fourteen (14) days of the return of approved shop drawings to the Contractor. No payment will be approved on any equipment for which Operating and Maintenance Manuals are required until the Operating and Maintenance Manuals are received by the Engineer. These O&M manuals must be addressed specifically to the piece of equipment supplied and shall not be general in nature; each item must be clearly identified and located. Each page must be printed on 8-1/2" x 11" paper or folded to that size in a manner that will be suitable for insertion in a three-ring binder.

- 4.18 **SAMPLES:** Samples are physical examples furnished by the Contractor to illustrate materials, equipment, or workmanship, and to establish standards by which the Work will be judged. It shall be the Contractor's responsibility to furnish samples as required by the technical specifications or as required by the Engineer. These samples must be submitted no later than is required by the Submittal Schedule.

Each sample shall have a label indicating the following:

- Project Title
- Name of Project Building or Facility
- Name of Contractor
- Name of Subcontractor (if applicable)
- Identification of Material with Specification Section
- Name of Producer and Brand (if any)

Samples shall be submitted in duplicate unless otherwise noted in the technical specifications and shall be accompanied by a copy of a transmittal letter containing Project Name, Contractor's Name, number of samples, specification section, and other pertinent data.

If the Engineer so requires, either prior to or after commencement of the work, the Contractor shall submit samples of materials for such special tests as the Engineer deems necessary to demonstrate that they conform to the Specifications. Such samples shall be furnished, taken, stored, packed, and shipped by the Contractor as directed. Except as otherwise expressly specified, the Contractor shall make arrangements for, and pay for, the tests.

All samples shall be packed to reach their destination in good condition. To ensure consideration of samples, the Contractor shall notify the Engineer by letter that the samples have been shipped and shall properly describe the samples in the letter. The letter of notification shall be sent separate from and should not be enclosed with the samples.

The Contractor shall submit data and samples, or place his orders, sufficiently early to provide ample time for consideration, inspection, testing, and approval before the materials and equipment are needed for incorporation in the work. The consequences of his failure to do so shall be the Contractor's sole responsibility.

In order to demonstrate the proficiency of workmen, or to facilitate the choice among several textures, types, finishes, surfaces, etc., the Contractor shall provide such samples of workmanship of wall, floor, finish, etc., as may be required.

When required, the Contractor shall furnish to the Engineer triplicate sworn copies of manufacturer's shop or mill tests (or reports from independent testing laboratories) relative to materials, equipment performance ratings, and concrete data.

- 4.19 **STORAGE OF MATERIALS AND EQUIPMENT:** All excavated materials, construction equipment, and materials and equipment to be incorporated in the Work shall be placed so as not to injure any part of the Work or existing facilities and so that free access can

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be had at all times to all parts of the Work and to all public utility installations in the vicinity of the Work. Materials and equipment shall be kept neatly piled and compactly stored in such locations as will cause a minimum of inconvenience to public travel and adjoining owners, tenants, and occupants.

- 4.20 **INSPECTION AND TESTING:** All materials and equipment used in the construction of the Project shall be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the Contract Documents.

The Owner shall provide all inspection and testing services not required by the Contract Documents.

The Contractor shall provide at his expense the testing and inspection services required by the Contract Documents.

If the Contract Documents, laws, ordinance, rules, regulations, or orders of any public authority having jurisdiction require any Work to specifically be inspected, tested, or approved by someone other than the Contractor, the Contractor will give the Engineer timely notice of readiness. The Contractor will then furnish the Engineer the required certificates of inspection, testing, or approval.

Inspections, tests, or approvals by the Engineer or others shall not relieve the Contractor from his obligations to perform the Work in accordance with the requirements of the Contract Documents.

The Engineer and his representatives will at all times have access to the Work. In addition, authorized representatives and agents of any participating Federal or State agency shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof.

If any Work is covered contrary to the written instructions of the Engineer it must, if requested by the Engineer, be uncovered for his observation and replaced at the Contractor's expense.

If the Engineer considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the Engineer's request, will uncover, expose, or otherwise make available for observation, inspection, or testing as the Engineer may require, that portion of the Work in question, furnishing all necessary labor, materials, tools, and equipment. If it is found that such Work is defective, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection, and testing and of satisfactory reconstruction. If, however, such Work is not found to be defective, the Contractor will be allowed an 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 an appropriate Change Order shall be issued.

- 4.21 **SUBSTITUTIONS:** The Contractor may recommend the substitution of a material, article, or piece of equipment of equal function for those referred to in the Contract Documents by reference to brand name or catalogue number, and if, in the opinion of the Engineer, such material, article, or piece of equipment is of equal function to that specified, the Engineer may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the Contract Price, and the Contract Documents shall be appropriately modified by Change Order.

The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the Project will result. Incidental changes or extra

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component parts required to accommodate the substitute will be made by the Contractor without a change in the Contract Price or Contract Time.

- 4.22 OR EQUAL CLAUSE: The phrase *or equal* shall be construed to mean that material or equipment will be acceptable only when in the judgment of the Engineer they are composed of parts of equal quality, or equal workmanship and finish, designed and constructed to perform or accomplish the desired result as efficiently as the indicated brand, pattern, grade, class, make, or model.

Whenever a material, article, or piece of equipment is identified on the Drawings or in the Specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers; etc., it is intended merely to establish a standard of quality and function; and, any material, article; or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed, is, in the opinion of the Engineer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Engineer's written approval.

- 4.23 WAGES AND OVERTIME COMPENSATION: The Contractor and each of his subcontractors shall comply with all applicable State and local laws or ordinances with respect to the hours worked by laborers and mechanics engaged in work on the project and with respect to compensation for overtime.

- 4.24 NO WAIVER: Neither the inspection by the Owner or the Engineer, nor any order measurement, approval, determination, decision, or certificate by the Engineer, nor any order by the Owner for the payment of money, nor any payment for or use, occupancy, possession, or acceptance of the whole or any part of the work by the Owner, nor the extension of time, nor any other act or omission of the Owner or of the Engineer shall constitute or be deemed to be an acceptance of any defective or improper work, materials, or equipment nor operate as a waiver of any requirement or provision of the Contract, or of any remedy, power, or right of or herein reserved to the Owner, nor of any right to damages for breach of contract. Any and all right and/or remedies provided for in the Contract are intended and shall be construed to be cumulative; and, in addition to each and every other right and remedy provided for herein or by law, the Owner shall be entitled as of right to a writ of injunction against any breach or threatened breach of the Contract by the Contractor, by his Subcontractors, or by any other person or persons.

- 4.25 WORK TO CONFORM: During its progress and on its completion, the work shall conform truly to the lines, levels, and grades indicated on the Drawings or given by the Engineer and shall be built in a thoroughly substantial and workmanlike manner, in strict accordance with the Drawings, Specifications, and other Contract Documents and the directions given from time to time by the Engineer.

All work done without instruction having been given therefore by the Engineer, without prior lines or levels, or performed during the absence of the Engineer, will not be estimated or paid for except when such work is authorized by the Engineer in writing. Work so done may be ordered uncovered or taken down, removed, and replaced at the Contractor's expense.

- 4.26 WORKING HOURS: It is contemplated that all work will be performed during the customary working hours of the trades involved unless otherwise specified in this Contract. Work performed by the Contractor at his own volition outside such customary working hours shall be at no additional expense to the Owner.

Any requests received by the Contractor from occupants of existing buildings to change the hours of work shall be referred to the Owner for determination.

5. INSURANCE, LEGAL RESPONSIBILITY, AND SAFETY

- 5.1 LITIGATION OF DISPUTES: JURISDICTION: OWNER and CONTRACTOR agree that this CONTRACT shall be in interpreted according to the Laws of the State of South Carolina, and that the appropriate forum and jurisdiction for resolving any disputes and claims shall be the South Carolina Court of Common Pleas for Charleston County.
- 5.2 WAIVERS EXPLICITLY IN WRITING: No action or failure to act by the ENGINEER or the OWNER, or the CONTRACTOR shall constitute a waiver of any right or duty, afforded any of them under the CONTRACT, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach there under, except as may be specifically agreed in writing.
- 5.3 ASSIGNMENTS: The Contractor shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of the Owner. In case the Contractor assigns all or any part of any monies due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior claims of all persons, firms, and corporations for services rendered or materials supplied for the performance of the work called for in this contract.
- 5.4 PERFORMANCE BOND AND PAYMENT BOND: Unless otherwise noted in the Supplemental Conditions, a Performance Bond and a Payment Bond are required. The Contractor shall obtain a Performance Bond and Payment Bond, acceptable to the Owner in a surety company authorized to do business in the state in which the Project is constructed, each for the full amount of the Contract Sum. The bonds shall guarantee the Contractor's faithful performance of the Contract and the payment of all obligations arising there under. The bonds shall remain in force until:
- 5.4.1 The Project has been completed and accepted by the Owner.
- 5.4.2 The provisions of all guarantees required by these Contract Documents have been fulfilled or the time limitation for all guarantees has expired, or
- 5.4.3 The time for the filing of all mechanics' liens has expired, whichever is longer, after which it shall become void.

The Contractor shall pay all charges in connection with the bonds as a part of the Contract. One executed copy of the bonds shall be attached to each copy of the Contract before they are returned to the Engineer for the Owner's signature.

If the Contractor defaults, the Contractor or his Surety shall reimburse the Owner for any additional Engineering fees for additional services made necessary because of the Contractor's default.

- 5.5 ADDITIONAL OR SUBSTITUTE BOND: If at any time the Owner for justifiable cause, shall be or become dissatisfied with the surety or sureties for the Performance and/or Payment Bonds, the Contractor shall within 5 days after notice from the Owner to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as maybe satisfactory to the Owner. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the Owner.

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5.6 CHANGES NOT TO AFFECT BONDS: It is distinctly agreed and understood that any changes made in the Work or the Drawings or Specifications therefore (whether such changes increase or decrease the amount thereof or the time required for its performance) or any changes in the manner or time of payments made by the Owner to the Contractor, or any other modifications of the Contract, shall in no way annul, release, diminish, or affect the liability of the Surety on the Contract Bonds given by the Contractor, it being the intent hereof that notwithstanding such changes the liability of the Surety on said bonds continue and remain in full force and effect.

5.7 COMPLIANCE WITH LAWS: The Contract shall be governed by the law of the place where the Project is located. The Contractor shall abide by all local and State Laws or ordinances to the extent that such requirements do not conflict with Federal laws or regulations. The Contractor shall keep himself fully informed of all existing and future federal, state, and local laws, ordinances, rules, and regulations affecting those engaged or employed on the work, the materials and equipment used in the work or the conduct of the work, and of all orders, decrees, and other requirements of bodies or tribunals having any jurisdiction or authority over the same, including, but not limited to the US Department of Labor and Bureau of Standards Safety and Health Regulations for Construction and its amendments as set up under the Williams-Steiger Occupational Safety and Health Act of 1970. If any discrepancy or inconsistency is discovered in the Drawings, Specifications, or other Contract Documents in relation to any such law, ordinance, rule, regulation, order, decree, or other requirement, the Contractor shall forthwith report the same to the Engineer in writing.

The Contractor shall at all times observe and comply with, and cause all his agents, servants, employees, and subcontractors to observe and comply with all such existing requirements, and he shall protect, indemnify, and save harmless the Owner, its officers, agents, servants, and employees, from and against any and all claims, demands, suits, proceedings, liabilities, judgments, penalties, losses, damages, costs and expenses, including attorney's fees, arising from or based upon any violation or claimed violation of any such law, ordinance, rule, regulations, order, decree, or other requirement, whether committed by the Contractor or any of his agents, servants employees, or subcontractors.

5.8 REQUIRED PROVISIONS DEEMED INSERTED: Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein, and the Contract shall be read and enforced as though it were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

5.9 LIENS: If at any time any notice of liens are filed for labor performed or materials or equipment manufactured, furnished, or delivered to or for the Work, the Contractor shall, at its own cost and expense, promptly discharge, remove, or otherwise dispose of the same, and until such discharge, removal, or disposition, the Owner shall have the right to retain from any monies payable hereunder an amount which, in its sole judgment, it deems necessary to satisfy such liens and pay the costs and expenses, including attorney's fees, of defending any actions brought to enforce the same, or incurred in connection therewith or by reason thereof.

5.10 CLAIMS: If at any time there is any evidence of any claims for which the Contractor is or may be liable or responsible hereunder, the Contractor shall promptly settle or otherwise dispose of the same, and until such claims are settled or disposed of, the Owner may retain from any monies which would otherwise be payable hereunder so much thereof as, in its judgment, it may deem necessary to settle or otherwise dispose of such claims and to pay the costs and expenses, including attorneys' fees, of defending any actions brought to enforce such claims, or incurred in connection therewith or by reason thereof.

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5.11 **INSURANCE:** The Contractor shall not commence any work until he obtains, at his own expense, all required insurance. Such insurance must have the approval of the Owner as to limit, form, and amount. The Contractor will not permit any Subcontractor to commence work on this project until the same insurance requirements have been complied with by such Subcontractor. All insurance coverage as required herein shall include the Owner as an additional insured therein.

The Contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates, and dates of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days notice in writing and delivered by registered mail to the Owner." Should any policy be canceled before final payment by the Owner to the Contractor and the Contractor fails immediately to procure other insurance as specified, the Owner reserves the right to procure such insurance and to deduct the cost thereof from any sum due the Contractor under this Contract.

Any insurance bearing on adequacy of performance shall be maintained after completion of the project for the full guaranty period. Should such insurance be canceled before the end of the guaranty period and the Contractor fails immediately to procure other insurance as specified, the Owner reserves the right to procure such insurance and to charge the cost thereof to the Contractor.

Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from his operations under this Contract.

The Contractor is required to obtain and maintain for the full period of the Contract the following types of insurance coverage with limits not less than stated below:

5.11.1 **WORKMEN'S COMPENSATION INSURANCE**

As required by applicable State or territorial law for all of his employees to be engaged in work at the site of the project under this Contract and, in case of any such work sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Workmen's Compensation Insurance. In case any class of employees engaged in hazardous work on the project under this Contract is not protected under the Workmen's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

5.11.2 **COMPREHENSIVE GENERAL LIABILITY**

	Bodily Injury Per Person	Bodily Injury Per Accident	Property Damage
Premises and Operations	1,000,000	1,000,000	1,000,000
Elevator Liability	1,000,000	1,000,000	1,000,000
Contractor's Protective Liability	1,000,000	1,000,000	1,000,000
Products Liability, Including Completed Operations Coverage	1,000,000	1,000,000	1,000,000

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5.11.3 COMPREHENSIVE AUTOMOBILE LIABILITY

All Owner Automobiles	1,000,000	1,000,000	1,000,000
Non-Owned Automobiles	1,000,000	1,000,000	1,000,000
Hired Car Coverage	1,000,000	1,000,000	1,000,000

5.11.4 SUBCONTRACTOR'S LIABILITY INSURANCE

Same limits as required of the General Contractor.

5.12 ORAL AGREEMENTS: No oral order, objection, claim, or notice by any party to the others shall affect or modify any of the terms or obligations contained in any of the Contract Documents, and none of the provisions of the Contract Documents shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing, and no evidence shall be introduced in any proceeding of any other waiver or modification.

5.13 SAFETY: In accordance with generally accepted construction practices, the Contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons and property affected directly or indirectly by his operations during the performance of the work. This requirement will apply continuously 24 hours per day until acceptance of the work by the Owner and shall not be limited to normal working hours.

The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

5.13.1 All employees on the Work and all other persons who may be affected thereby;

5.13.2 All the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody, or control of the Contractor or any of Subcontractors or Sub-subcontractors; and

5.13.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

The Contractor shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. He shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

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

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

The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

6. PROGRESS AND COMPLETION OF WORK

- 6.1 NOTICE TO PROCEED: Following the execution of the Agreement by the Owner and the Contractor, written Notice to Proceed with the work shall be given by the Owner to the Contractor. The Contractor shall begin and shall prosecute the work regularly and uninterruptedly thereafter (except as provided for herein) with such force as to secure the completion of the work within the Contract Time.
- 6.2 CONTRACT TIME: The Contractor shall complete, in an acceptable manner, all of the work contracted for in the time stated in the Agreement. Computation of Contract Time shall commence the day to be specified in the Notice to Proceed and every calendar day following, except as herein provided, shall be counted as Contract Time.
- 6.3 SCHEDULE OF COMPLETION: The Contractor shall submit, at such times as may reasonably be requested by the Engineer, schedules showing the order in which the Contractor proposes to carry on the work, with dates at which the Contractor will start the various parts of the work, and estimated date of completion of each part.
- 6.4 WORK CHANGES: The Owner may, as the need arises, order changes in the work through additions, deletions, or modifications to the extent of 20% of the Contract Amount, without invalidating the Contract. Competition and time of completion affected by the change shall be adjusted at the time of ordering such change. Payment for addition or deletion of work shall be at the unit price set forth in the bid.
- 6.5 EXTRA WORK: New and unforeseen items of work found to be necessary, and which cannot be covered by an item or combination of items for which there is a Contract Price, shall be classed as Extra Work. The Contractor shall do such Extra Work and furnish such materials as may be required for the proper completion or construction of the whole work contemplated, upon written order from the Owner as approved by the Engineer. In the absence of such written order, no claim for Extra Work shall be considered. Extra Work shall be performed in accordance with these Contract Documents where applicable, and work not covered by such shall be done in accordance with the best construction practice and in a workmanlike manner. Extra Work required in an emergency to protect life and property shall be performed by the Contractor as required.
- 6.6 EXTENSION OF CONTRACT TIME: A delay beyond the Contractor's control occasioned by an Act of God, by act or omission on the part of the Owner or by strikes, lockouts, fire, etc., not caused by the Contractor, may entitle the Contractor to an extension of time in which to complete the work as agreed by the Owner, provided, however, that the Contractor shall immediately give written notice to the Owner of the cause of such delay. Act of God shall mean an earthquake, flood, cyclone, or other cataclysmic phenomenon of nature. Rain, wind, flood, or other natural phenomenon of normal intensity for the locality shall not be construed as an Act of God, and no reparation shall be made to the Contractor for damages to the work resulting there from.

All claims for extension of time shall be made in writing to the Engineer no more than twenty days after the occurrence of the delay; otherwise they shall be waived. In the case of continuing cause of delay only one claim is necessary. Any claim should include complete justification for the extent of the delay claimed.

This Subsection does not exclude the recovery of damages for delay for either party under other provisions of the Contract Documents.

- 6.7 ENGINEER'S CERTIFICATE OF SUBSTANTIAL COMPLETION: When the work to be performed under this Contract is substantially completed in accordance with the Contract

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Documents, the Engineer shall prepare an Engineer's Certificate of Substantial Completion to be acknowledged and accepted by the Owner and the Contractor. The Certificate may list items to be completed or corrected but such Certificate shall not relieve the Contractor of his obligation to complete all work, whether listed or not, in accordance with the Contract Documents nor will it preclude any right the Owner may have for recourse in accordance with the Contract Documents.

- 6.8 TERMINATION OF CONTRACTOR'S RESPONSIBILITY: The Contract will be considered complete when all work has been finished, the final review made up by the Engineer, and the project accepted in writing by the Owner. The Contractor's responsibility shall then cease, except as set forth in his Performance Bond, as provided in Subsection 4.6 entitled *GENERAL GUARANTY*, and as provided in Subsection 6.9 entitled *CORRECTION OF FAULTY WORK AFTER FINAL PAYMENT*.
- 6.9 CORRECTION OF FAULTY WORK AFTER FINAL PAYMENT: The making of the final payment by the Owner to the Contractor shall not relieve the Contractor of responsibility for faulty materials or workmanship. The Contractor shall promptly replace any such defects discovered within one year, except where longer periods are specified, from the date of written acceptance of the work.
- 6.10 PROGRESS SCHEDULE: Within twenty (20) days after execution and delivery of the Agreement and not less than ten (10) days prior to making an application for partial payment, the Contractor shall prepare and deliver to the Engineer a Progress Schedule on forms approved by the Engineer.

The schedule shall be set up in a Critical Path format and shall show the proposed dates of commencement and completion of the various subdivisions of work required under the Contract Documents.

The schedule shall show the dates of commencement and completion of the various subdivisions of work required by the Contract Documents and all activities required to accomplish the work. No activity included in the schedule shall have a duration greater than fifteen (15) days. After approval of the Submit Schedule, the Contractor shall incorporate this schedule into the CPM schedule.

The schedule shall be updated monthly. No progress payments will be made unless application is accompanied by the updated schedule.

- 6.11 SCHEDULES, REPORTS, AND RECORDS: The Contractor shall submit to the Owner such schedules of quantities and costs, progress schedules, payrolls, reports, estimates, records, and other data where applicable as are required by the Contract Documents for the Work to be performed.

The Contractor shall also submit, in a format as approved by the Engineer, a schedule of payments that he anticipates he will earn during the course of the Work.

- 6.12 ABANDONMENT OF WORK OR OTHER DEFAULT: If the work shall be abandoned, or any part thereof shall be sublet without previous written consent of the Owner, or the Contract or any monies payable hereunder shall be assigned otherwise than as herein specified, or if at any time the Engineer shall be of the opinion, and shall so certify in writing, that the conditions herein specified as to rate of progress are not being complied with, or that the work or any part thereof is being unnecessarily or unreasonably delayed, or that the Contractor has violated or is in default under any of the provisions of the Contract, or if the Contractor becomes bankrupt or insolvent or goes or is put into liquidation or dissolution, either voluntarily or involuntarily, or petitions for an arrangement or reorganization under the Bankruptcy Act, or makes a general assignment for the benefit of creditors or otherwise acknowledges insolvency, the happening of any of which shall be and constitute a default under the Contract, the Owner may notify the Contractor in writing,

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with a copy of such notice mailed to the Surety, to discontinue such work or any part thereof; thereupon the Contractor shall discontinue such work or such part thereof as the Owner may designate; and the Owner may, upon giving notice, by contract or otherwise as it may determine, complete the work or such part thereof and charge the entire cost and expense of so completing the work or such part thereof to the Contractor. In addition to the said entire cost and expense of completing the work, the Owner shall be entitled to reimbursement from the Contractor and the Contractor agrees to pay the Owner any losses, damages, costs, and expenses, including attorney's fees, sustained or incurred by the Owner by reasons of any of the foregoing causes. For the purposes of such completion the Owner may for itself or for any contractors employed by the Owner take possession of any and use or cause to be used any and all materials, equipment, plant, machinery, appliances, tools, supplies, and such other items of every description that may be found or located at the site of the Work. No equipment or materials may be removed from the Work without the written consent of the Owner.

All costs, expenses, losses, damages, attorney's fees, and any and all other charges incurred by the Owner under this Subsection shall be charged against the Contractor and deducted and/or paid by the Owner out of any monies due or payable or to become due or payable under the Contract to the Contractor; in computing the amounts chargeable to the Contractor, the Owner shall not be held to a basis of the lowest prices for which the completion of the work or any part thereof might have been accomplished, but all sums actually paid or obligated therefore to effect its prompt completion shall be charged to and against the account of the Contractor. In case the costs, expense, losses, damages, attorney's fees, and other charges together with all payments theretofore made to or for the account of the Contractor are less than the sum which would have been payable under the Contract if the work had been properly performed and completed by the Contractor, the Contractor shall be entitled to receive the difference and, in case such costs, expenses, losses, damages, attorney's fees, and other charges, together with all payments theretofore made to or for the account of the Contractor, shall exceed the said sum, the Contractor shall pay the amount of the excess to the Owner.

7. PAYMENTS TO THE CONTRACTOR

- 7.1 PRICES FOR WORK: The Owner shall pay and the Contractor shall receive the prices stipulated in the Bid made a part hereof as full compensation for everything performed and furnished and for all risks and obligations undertaken by the Contractor under and as required by the Contract.

Payments by the Owner to the Contractor shall be based on a Lump Sum for the scope of Work. Unit prices have been received from the Contractor and agreed to by the Owner to provide agreed upon prices for modification to Work quantities. The Owner and Contractor agree that if the scope of Work either increases or decreases within 20% of the original unit quantities, the payment for such increase or decrease shall be based on the unit prices as set forth in the Contract Documents.

- 7.2 SCHEDULE OF VALUES: Except in cases where unit prices form the basis for payment under the Contract, the Contractor shall, within twenty (20) days of the execution of the Contract and not less than ten (10) days prior to making an application for partial payment, submit to the Owner in a form approved by the Owner a schedule of values showing a breakdown of the Contract Sum itemized by trade and/or specification sections or as otherwise directed by the Owner and for each item shall show the total value including the Contractor's overhead and profit. Upon approval by the Owner, this schedule will be used in determining the value of the work done for the purpose of partial payments.

The costs employed in making up any of these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the Contract Price.

- 7.3 APPLICATIONS FOR PARTIAL PAYMENT: Before the first day of each month, or as otherwise directed by the Owner, the Contractor shall make applications for the value of the work done and the materials installed and/or delivered to the site for installation in the project during the previous month. Such applications shall show the breakdown of the project into the same items as the schedule of values specified in Subsection 7.2 entitled *SCHEDULE OF VALUES* and showing for each item the total value, the value previously reported as complete, the value completed during the month, the cumulative value completed, and the value remaining to be done. The application shall also show the value of materials delivered to the site which have not been incorporated into the work and whose value is not included in the amount shown for the work of which they are a part. The value of such materials shall be established by attaching copies of invoices covering the materials to the application. The application shall include a summary of value of the work performed during the previous month, plus the value of the material delivered to the job site but not incorporated in the work, and minus the amount of the retainage indicated in Subsection 7.4 entitled *RETAINAGE*.

The Engineer will, within ten (10) days after receipt of each partial payment estimate, either indicate in writing his approval of payment and present the partial payment estimate to the Owner, or return the partial payment estimate to the Contractor indicating in writing his reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial payment estimate.

- 7.4 RETAINAGE: The Owner shall retain ten (10) percent of the amount of each payment until final completion and acceptance of all work covered by the Contract Documents. The Owner at any time, however, after fifty (50) percent of the work has been completed, if he finds that satisfactory progress is being made, will make further partial payments in full on the current and remaining estimates, but amounts previously retained shall not be paid to the Contractor at fifty (50) percent completion or any time thereafter. When, in the opinion of the Engineer, the progress of the Work is not satisfactory, additional amounts may be retained but in no event shall the total retainage be more than ten (10) percent of the value of the work completed. Upon substantial completion of the work, any amount retained may be paid to the Contractor. When the Work has been substantially completed except for Work that cannot be completed because of weather conditions, lack of materials, or other reasons that in the judgment of the Owner are valid reasons for non-completion, the Owner may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the Work still to be completed.

- 7.5 PAYMENTS WITHHELD: The Owner may withhold payment or, on account of subsequently discovered evidence, nullify the whole or part of any application to the extent necessary to protect himself from loss on account of the following:

- 7.5.1 Defective work not remedied.
- 7.5.2 Claims filed or reasonable evidence indicating the probably filing of claims.
- 7.5.3 Failure of the Contractor to make payments to Subcontractors, material suppliers, or employees.
- 7.5.4 A reasonable doubt that the Contract work can be completed for the balance unpaid.
- 7.5.5 Damage to another Contractor.

When the above grounds are removed, payment will be made for the amounts withheld because of them.

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- 7.6 PAYMENT OF APPLICATIONS FOR PARTIAL PAYMENT: Upon verification and approval of the application for partial payment made as specified, the Owner will make payment of the amount found properly due. No payment made to the Contractor or partial or entire use or occupancy of the Work by the Owner shall be an acceptance of any work or materials not in accordance with this Contract.
- 7.7 FINAL INSPECTION: Upon receipt of written notice from the Contractor that the work has been completed and finished in accordance with the Contract, the Owner shall cause an inspection to be made of the work by his authorized representatives. A list shall be made of all deviations from the Contract requirements (commonly termed *punch list*), and a copy of such list furnished to the Contractor. The Contractor shall with reasonable haste remedy all defects so noted and shall notify the Owner upon the completion of such work. When inspection by the Owner's authorized representatives shows the work to be complete in accordance with the Contract, application for final payment may be made.
- 7.8 RELEASE OF LIENS: Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall deliver to the Owner a complete and notarized release of all liens arising out of this Contract, or receipts in full in lieu thereof, and if required in either case, an affidavit that so far as he had knowledge of information the releases and receipts include all the labor and material for which a lien could be filed; but the Contractor may, if any Subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Owner, to indemnify him against any lien. If any lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.
- 7.9 USE OR PARTIAL PAYMENT NOT ACCEPTANCE: It is agreed that this is an entire contract for one whole and complete work or result and that neither the Owner's entrance upon or use of the Work or any part thereof nor any partial payments by the Owner shall constitute an acceptance of the Work or any part thereof before its entire completion and final acceptance.
- 7.10 PAYMENT FOR UNCORRECTED WORK: Should the Owner direct the Contractor not to correct work that has been damaged or that was not performed in accordance with the Contract Documents, an equitable deduction from the Contract Amount shall be made to compensate the Owner for the Uncorrected Work.
- 7.11 PAYMENT FOR REMOVAL OF REJECTED WORK AND MATERIALS: The removal of work and materials rejected in accordance with Subsection 4.3 entitled *CORRECTION OF WORK BEFORE COMPLETION* and the re-execution of acceptable work by the Contractor shall be at the expense of the Contractor, and he shall pay the cost of replacing the work of other contractors destroyed or damaged by the removal of the rejected work or materials and the subsequent replacement of acceptable work.
- Removal of rejected work or materials and storage of materials by the Owner, in accordance with Subsection 4.3 entitled *CORRECTION OF WORK BEFORE COMPLETION*, shall be paid by the Contractor within thirty (30) days after written notice to pay is given by the Owner. If the Contractor does not pay the expenses of such removal and after ten (10) days' written notice being given by the Owner of his intent to sell the materials, the Owner may sell the materials at auction or at private sale and will pay the Contractor the net proceeds there from after deducting all the costs and expense that should have been borne by the Contractor.
- 7.12 PAYMENT FOR EXTRA WORK: Written notice of claims for payment for Extra Work shall be given by the Contractor within ten days after receipt of instructions from the Owner to proceed with the Extra Work and also before any work is commenced, except in emergency endangering life or property. No claim shall be valid unless so made. In all cases, the Contractor's itemized estimate sheets showing all labor and material shall be submitted to the

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Owner. The Owner's order for Extra Work shall specify any extension of the Contract Time and shall be based on unit price(s) or a combination of unit price(s) as set forth in the Contract Documents within 20% of the original unit quantities. Any unit quantity greater than 20% of the original amount shall include a cost savings to the Owner based on economy of scale.

- 7.13 PAYMENT FOR WORK SUSPENDED BY THE OWNER: If the work or any part thereof shall be suspended by the Owner and abandoned by the Contractor as provided in Subsection 2.12 entitled *SUSPENSION OF WORK, TERMINATION, AND DELAY*, the Contractor will then be entitled to payment for all work done on the portions so abandoned, plus fifteen (15) percent of the value of the abandoned work to compensate for overhead, plant expense, and anticipated profit.
- 7.14 PAYMENT FOR WORK BY THE OWNER: The cost of the work performed by the Owner, in accordance with Subsection 2.10 entitled *OWNER'S RIGHT TO DO WORK*, shall be paid by the Contractor.
- 7.15 PAYMENT FOR WORK BY THE OWNER FOLLOWING TERMINATION OF CONTRACT BY OWNER: Upon termination of the Contract by the Owner in accordance with Subsection 2.11 entitled *OWNER'S RIGHT TO TERMINATE CONTRACT*, no further payment shall be due the Contractor until the work is completed. If the unpaid balance of the Contract Amount shall exceed the cost of completing the work including all overhead costs, the excess shall be paid to the Contractor. If the cost of completing the work shall exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The cost incurred by the Owner, as herein provided, and the damage incurred through the Contractor's default, shall be certified by the Owner.
- 7.16 PAYMENT FOR SAMPLES AND TESTING OF MATERIALS: Samples furnished in accordance with Subsection 4.18 entitled *SAMPLES*, shall be furnished by the Contractor at his expense.
- 7.17 ACCEPTANCE AND FINAL PAYMENT: When the Contractor shall have completed the work in accordance with the terms of the Contract Documents, he shall certify completion of the work to the Owner and submit a final Request for Payment, which shall be the Contract Amount plus all approved additions, less all approved deductions and less previous payments made. The Contractor shall furnish evidence that he has fully paid all debts for labor, materials, and equipment incurred in connection with the work, and, upon acceptance by the Owner, the Owner will release the Contractor except as to the conditions of the Performance Bond and the Payment Bond, any legal rights of the Owner, required guaranties, and Correction of Faulty Work after Final Payment, and will pay the Contractor's final Request for Payment. The Contractor shall allow sufficient time between the time of completion of the work and approval of the final Request for Payment for the Engineer to assemble and check the necessary data.

The Contractor shall deliver to the Owner a complete release of all liens arising out of this Contract before the retained percentage or before the final Request for Payment is paid.

- 7.18 ACCEPTANCE OF FINAL PAYMENT AS RELEASE: The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this Work and for every act and neglect of the Owner and others relating to or arising out of this Work. Any payment, however, final or otherwise, shall not release the Contractor or his sureties from any obligations under the Contract Documents or the Performance Bond and the Payment Bond.

- 7.19 DELAYS AND DAMAGES: The date of beginning and the time for completion of the Work are essential conditions of the Contract Documents and the Work embraced shall be commenced on a date specified in the Notice to Proceed.

The Contractor will proceed with the Work at such rate of progress to insure full completion within the Contract Time. It is expressly understood and agreed by and between the Contractor and the Owner that the Contract Time for the completion of the Work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the Work. If the Contractor refuses or fails to prosecute the Work, or any separable part thereof, with such diligence as will insure its completion within the time specified in the Contract, or any extension thereof, or fails to complete said Work within such time, the Owner may, by written notice to the Contractor and his Surety, terminate his right to proceed with the Work or such part of the work as to which there has been delay. In such event the Owner may take over the Work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plant as may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the Work is terminated, he and his sureties shall be liable for any damage to the Owner resulting from his refusal or failure to complete the Work within the specified time.

If fixed and agreed liquidated damages are provided in the Contract and if the Owner so terminates the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until such reasonable times may be required for final completion of the Work together with any increased costs occasioned the Owner in completing the Work.

If fixed and agreed liquidated damages are provided in the Contract, and if the Owner does not so terminate the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until the Work is completed or accepted, provided that the Owner reserves the right to elect other remedies available at law or in equity in lieu of liquidated damages.

The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:

- 7.19.1 The delay in the completion of the Work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, Acts of God, acts of the public enemy, acts of the Government in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers; and

- 7.19.2 The Contractor, within ten (10) days from the beginning of any such delay (unless the Owner grants a further period of time before the date of final payment under the Contract), notifies the Owner in writing of the causes of delay.

As used in subparagraph I, above, the term *subcontractors or suppliers* means subcontractors or suppliers at any time.

The Engineer shall ascertain the facts and the extent of the delay and extend the time for completing the Work when, in his judgment, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in these General Conditions.

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The rights and remedies of the Owner provided in this clause are in addition to any other rights and remedies provided by law or under this Contract.

(End of Section 01230)

SECTION 01232 SUPPLEMENTAL CONDITIONS

1. CONFLICT OR INCONSISTENCY: If there is any conflict or inconsistency between the provisions of the SUPPLEMENTAL CONDITIONS and the GENERAL CONDITIONS, the provisions of the SUPPLEMENTAL CONDITIONS shall prevail. If there is conflict between the provisions of the GENERAL CONDITIONS and any of the Contract Documents other than the SUPPLEMENTAL CONDITIONS, the provisions of the GENERAL CONDITIONS shall prevail.
2. CONFLICT OF INTEREST: No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve, or to take part in negotiation, making, accepting, or approving any architectural, engineering, inspecting, construction, or material supply contract, or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part thereof. No officer, employee, architect, attorney, engineer, or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner who is in any legislative, executive, supervisory, or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.
3. CONTRACT MODIFICATION: All changes that affect the cost of the construction of the project must be authorized by means of a contract change order. All change orders and contract modifications must be approved by the Owner prior to becoming effective. The contract change order will include extra work, work for which quantities have been altered from those shown in the bidding schedule, as well as decreases or increases in the quantities of installed units that are different from those shown in the bidding schedule because of final measurements. All changes should be recorded on a contract change order as they occur so that they may be included in the partial payment estimate.
4. TRAFFIC & CONSTRUCTION REQUIREMENTS FOR REBELLION ROAD:
 - 4.1 Permissible working hours are Monday through Friday, 7:00 a.m. to 7:00 p.m. No work is permitted between Friday, 7:00 p.m. and Monday, 7:00 a.m.
 - 4.2 All excess materials shall be stored within the limits of the roadway or at a reasonably accessible staging area that will not delay progress of work. The material storage site is to be limited to that which is required for immediate work. Location and size of storage area must be approved by the Engineer.
 - 4.3 All impacted pavement markings shall be catalogued prior to the start of construction. It will be the responsibility of the contractor to see that any markings destroyed or removed by excavations are replaced. The materials and replacement of the pavement markings shall be in accordance with the South Carolina Department of Transportation requirements and approved by the City of Charleston Department of Traffic and Transportation.
5. TEN STATES STANDARDS: The horizontal and vertical separation of sewer lines and water mains must be in accordance with the *Ten States Standards*.
 - 5.1 Horizontal Separation: Whenever possible, sewers should be laid at least 10 feet, horizontally, from any existing or proposed water main. Should local conditions prevent a lateral separation of 10 feet, a sewer may be laid closer than 10 feet to a water main if one of the following conditions exists:
 - 5.1.1 It is laid in a separate trench.

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- 5.1.2 It is laid in the same trench with the water mains located at one side on a bench of undisturbed earth.
- 5.1.3 In either case, the elevation of the crown of the sewer is at least 18 inches below the invert of the water main.
- 5.2 Vertical Separation: Whenever sewers must cross under water mains, the sewer shall be laid at such an elevation that the top of the sewer is at least 18 inches below the bottom of the water main. When the elevation of the sewer cannot be buried to meet the above requirement, the water main shall be relocated to provide this separation, or reconstructed with slip-on or mechanical joint cast iron pipe, asbestos-cement pressure pipe or prestressed concrete cylinder pipe for a distance of 10 feet on each side of the sewer. One full length of water main should be centered over the sewer so that both joints will be as far from the sewer as possible.
- 5.3 Special Conditions: When it is impossible to obtain proper horizontal and vertical separation as stipulated above, the water main should be constructed of slip-on or mechanical-joint cast iron pipe, asbestos-cement pressure pipe, or prestressed concrete cylinder pipe and the sewer constructed of mechanical joint cast iron pipe, and both services should be pressure tested to assure watertightness.
6. FEDERAL SAFE DRINKING WATER ACT: In accordance with Section 1417 of this Act, any pipe, solder, or flux used in the installation or repair of public water systems and plumbing used for drinking water, must be lead free. Lead free is defined as less than 0.2 percent lead in solder and flux and less than 8.0 percent lead in pipes and fittings. Leaded joints for the repair of cast iron pipes are not included. Lead shot and lead packers in well construction are no longer allowed.
7. WATER SUPPLY: It shall be the Contractor's responsibility to purchase and convey the necessary water to any location at which it is required on the project.
8. STATE AND LOCAL PERMITS, LICENSES, INSPECTIONS, CERTIFICATES: The Contractor shall obtain such required documents and pay the fees assessed for each division of work for which such permits, licenses, and inspections are required. The Contractor shall also obtain and pay the fees for general permits such as Building Permits and Certificate of Occupancy.
9. SIGNS: The Owner reserves the right to all advertising privileges about the job and no signs shall be posted by the Contractor anywhere on the premises without approval by the Owner except those signs, posters, or bulletins required by Federal, State, or local authorities.
10. OWNER'S INSURANCE AUTHORITY: During all phases of construction, the Contractor will be required to perform his operations so as to comply expeditiously with the recommendations of the Owner's Insurance Authority.
11. PUBLICITY: All prime contractors and their subcontractors shall submit to the Owner for approval all publicity items, including photographs, relating to the work of this project. Owner shall approve any and all material prior to release for publication.
12. PROTECTION OF WORK: The Contractor shall at all times, until final acceptance of the work, provide protection of the work, either new or previously existing, from all hazards involved in his operations. All damage suffered by any item of work, including, but not limited to, drains, curbs, doors, equipment, and structures, shall be repaired or the item shall be replaced prior to final acceptance.
13. ELEVATION DATUM: The datum adopted by the Engineer is NGVD 1929. All elevations shown on the Drawings or referred to in these specifications refer to this datum. Several benchmarks are indicated on the Drawings.

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14. OCCUPYING PRIVATE LAND: The Contractor shall not (except after written consent from the proper parties) enter or occupy with men, tools, or materials, any land outside the rights-of-way of property of the Owner. A copy of the written consent shall be given to the Engineer.

15. WORK CITY RIGHTS-OF-WAY: Attention is directed to the fact that work will be going on in City rights-of-way. The Owner has obtained permission for the Contractor to encroach on these rights-of-way for work.

The Contractor will be required to conform to the requirements of the South Carolina Department of Transportation and the City of Charleston while working within the rights-of-way.

16. WORK BEING PERFORMED NEAR WATER AND SEWER LINES: The Contractor will inform the Commissioners of Public Works as to the areas where work is being performed. It is required of a Contractor to obtain permission from the Commissioners of Public Works where alterations to their system are required. All repairs and/or alterations to Commissioners of Public Works owned utilities shall conform to their construction standards and requirements, including work being performed by approved contractors.

17. TRAFFIC CONTROL: The Contractor will comply with the manual published by the South Carolina Department of Highways and Public Transportation entitled *Traffic Controls for Street and Highway Construction and Maintenance Operations, Part V, of the South Carolina Manual on Uniform Traffic Control Devices for Streets and Highways, 1982, 1992 Revision*. Provide traffic control as required and approved by the South Carolina Department Transportation and the City of Charleston.

Upon completion and acceptance of the work or as the need for temporary traffic control devices ceases, they shall be removed by the Contractor and shall remain the property of the Contractor.

The Contractor shall provide signs where warranted to maintain traffic or to call attention to conditions on, or adjacent to, the construction work. Such signs shall be removed when they are no longer required.

All traffic control and marking devices shall be in accordance with the provisions of the *State of South Carolina Uniform Manual on Traffic Control Devices*. Upon completion and acceptance of the work or as the need for temporary traffic control devices ceases, they shall be removed by the Contractor and shall remain the property of the Contractor.

18. LINES, GRADES, AND MEASUREMENTS: The Contractor shall employ, at his own expense, a competent civil engineer or land surveyor who shall be registered in South Carolina and who shall be thoroughly experienced in field layout work. Said Engineer shall establish all lines, elevations, reference marks, etc., needed by the Contractor during the progress of the work, and from time to time he shall verify such marks by instrument or by other appropriate means. The Owner's Engineer may waive the requirement for the Engineer to be registered in South Carolina upon a presentation of a resume, which is satisfactory. The waiving of this requirement may be revoked at any time by the Owner's Engineer.

The Contractor's Engineer responsible for lines and grades shall verify to the Owner in writing that work has been constructed to lines and grades as shown on the Drawings. This certification shall accompany each request for payment. The Owner's Engineer shall be permitted at any time to check the lines, elevations, reference marks, lasers, etc., set by the Engineer employed by the Contractor, and the Contractor shall correct any errors in lines, elevations, reference marks, lasers, etc., disclosed by such check. Such a check shall not be construed to be an approval of the Contractor's work and shall not relieve the Contractor of the responsibility for the accurate construction of the entire work.

The Contractor shall make all measurements and check all dimensions necessary for the proper construction of the work called for by the Drawings and Specifications. During the prosecution of the

Rebellion Road Pipe Rehabilitation Project

work, he shall make all necessary measurements to prevent misfitting in said work, and he shall be responsible therefore, and for the accurate construction of the entire work.

The Owner's Engineer shall have access to all field notes. Field notes will be recorded in bound field books, and copies given the Owner's Inspector at the close of each shift.

19. CITY BUSINESS LICENSE: The successful Bidder and all subcontractors will be required to obtain a business license from the City of Charleston prior to beginning work, if said Bidder does not have a current license.

20. UTILITY LOCATIONS: Prior to beginning any excavation, the Contractor shall notify all public utility companies and have their lines located and marked. The following is a list of utility companies and persons to be contacted for utility locations.

<u>UTILITY SERVICE OR FACILITY</u>	<u>PERSON TO CONTACT (NAME, TITLE & PHONE NO.)</u>
Telephone, Electric, Gas, Cable TV	Palmetto Utility Production Service 1-888-721-7877 Call 3 days prior to digging
Water & Sewer	Charleston CWS (843) 727-6800 (Ask for Service Department) Will send field technician to locate

21. DANGER SIGNALS AND SAFETY DEVICES: The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades, and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under this Specifications or contract.

22. ARTIFACTS: Any historical artifacts that are unearthed during the excavation, removal, or construction of subsurface material are the property of the Owner and shall be immediately turned over. The contractor shall also immediately notify the Owner when items that could be construed as historical are unearthed. Excavation shall be stopped in the area until the Owner notifies the Contractor that excavation may proceed.

23. PAVEMENT GUARANTEE: The Contractor warrants to the Owner that all materials and workmanship furnished on roadways are guaranteed in accordance with the terms of the General Conditions, Section 4, General Guarantee, for a period of two (2) years. The Contractor will remedy any settlements or deficiencies of the pavement surface within this period.

24. CLEAN-UP FOLLOWING WORK: Contractor will expedite clean-up and restoration work as required by the Contract Drawings and Specifications. To the maximum extent possible, roadways, drives, drainage ditches, and structures will be restored immediately after the pipeline installation. The restoration or replacement of public or private property should be scheduled as a top priority work item in the execution of this project.

25. PRE-CONSTRUCTION CONFERENCE: Prior to construction, a pre-construction conference will be held with representatives of the Owner, Contractor, and the Engineer.

26. PERFORMANCE STANDARDS: Reference to standards, 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

Rebellion Road Pipe Rehabilitation Project

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 any of their Consultants, agents, or employees from those set forth in the Contract Documents, nor shall it be effective to assign to Owner, or any of Owner's Consultants, agent, or employees, any duty or authority to supervise or direct the furnishing or performance of the Work. Where specific standards are not given for materials or installation, the provisions of the South Carolina Department of Transportation standard specifications for highway construction (2000 edition) will apply.

27. AS-BUILT DRAWINGS: The Contractor shall, upon completion of the work, furnish to the Owner, a marked set of reproducible drawings showing the field changes affecting the work, as actually installed and as specified under those sections of the specifications, and deliver them to the Owner. The Owner will furnish sufficient prints to the Contractor for marking, free of cost.
28. SPECIFICATIONS AND DRAWINGS: The following Drawings and Specifications form a part of this Contract as set forth in Paragraph 1.1, Section 01230, GENERAL CONDITIONS. The Drawings bear the general designation:

THE DRAWINGS ARE LISTED AS FOLLOWS

<u>Sheet No.</u>	<u>Title</u>
1 of 1	Rebellion Road Pipe Rehabilitation Project Map

THE TECHNICAL SPECIFICATIONS

<u>Section</u>	<u>Title</u>
330130.72	Relining sewers
334100	Storm drain piping

ADDITIONAL INFORMATION

CCTV Inspection Report – Rebellion Road, dated October 2014

(End of Section 01232)

COMMITTEE / COUNCIL AGENDA

6.

TO: John J. Tecklenburg, Mayor
FROM: Laura S. Cabiness, P.E. DEPT. Public Service
SUBJECT: INTERGOVERNMENTAL AGREEMENT – DISASTER DAMMAGE ASSESSMENT AND DEBRIS REMOVAL FOR THE CITY OF CHARLESTON
REQUEST: This is an intergovernmental with Berkeley County to allow the county to activate its disaster response contracts and perform services in the city of Charleston.

COMMITTEE OF COUNCIL: Ways and Means DATE: October 25, 2016

COORDINATION: This request has been coordinated with: *(attach all recommendations/reviews)*

	Yes	N/A	Signature of Individual Contacted	Attachment
Corporate Counsel	<input type="checkbox"/>	<input type="checkbox"/>	<u><i>Frances P. Cantwell</i></u>	<input type="checkbox"/>
Cap. Proj. Cmte. Chair	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
<u>Director, Public Services</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u><i>Laura Cabiness/libc</i></u>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>

FUNDING: Was funding previously approved? Yes No N/A

If yes, provide the following: Dept./Div.: _____ Account #: _____

Balance in Account _____ Amount needed for this item _____ \$TBD

Does this document need to be recorded at the RMC's Office? Yes No

NEED: Identify any critical time constraint(s). This agreement was executed under the emergency authorization approved by city council. The city would only be responsible for costs that were not covered by FEMA or the State of South Carolina.

CFO's Signature: *Amy Wharton*

FISCAL IMPACT:

Mayor's Signature: _____
John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the County and the City hereby agree as follows:

Section 1: Findings. The above recitals and findings are incorporated herein by reference and made a part of this Agreement.

Section 2: Delegation of Authority. After a severe event, the City may request and authorize the County, and the County may agree to provide the services within its municipal jurisdiction as herein set forth. After receiving the City's request and authorization, the County will perform all services hereunder.

Section 3: Scope of Services. Charleston County shall perform in a satisfactory manner the services designated below. Specific work activities to be undertaken by Berkeley County include:

Obligations of the County:

1. Following the occurrence of a severe event and after receiving a request for services and authorization from the City, the County will undertake to assess damage and/or remove disaster debris from both the unincorporated and incorporated areas of the County.
2. In the event of a federal declaration in which the County becomes eligible for reimbursement by FEMA for the City's requested and authorized damage assessment and/or cleanup and removal of disaster debris, the County shall endeavor the following:
 - a. County staff and contractors shall use their best efforts to assess and report damage in accordance with applicable FEMA procedures.
 - b. County staff and contractors shall use their best efforts to remove only debris that is eligible for reimbursement by FEMA.
 - c. County staff and contractors shall provide debris monitoring services to the City for disaster debris removal work performed by City staff.
 - d. County shall be the Public Assistance Applicant and Subgrantee to FEMA for disaster debris operations.

Obligations of the City:

1. Should the City request that the County remove debris that the County has determined to be ineligible for State or FEMA reimbursement, the City agrees to reimburse the County no later than thirty (30) days from the invoice date for the removal of ineligible debris
2. Should FEMA or State not reimburse the County 100% for eligible debris and monitoring services, the City will reimburse the County for the percentage excluded by the State and FEMA within a reasonable period of time after receiving an invoice.
3. Following a severe event, the City will inform the County and follow-up with a written notice within five (5) calendar days, if the City does wish to have debris removed from the City by the County.

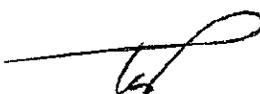
Section 4: Term.

1. This Agreement will become effective as of the date listed above, upon execution by authorized representatives of both parties.
2. The Term of this Agreement shall be from the date of execution through the end of FY 2026 (July 1 – June 30) unless either party provides notice of termination pursuant to Section 5 and Section 6 herein.

Section 5: Termination for Convenience. Both the County and the City, by advance written notice, may terminate this Agreement when it is in the best interests of the County or the City. If this Agreement is so terminated, the County shall be compensated for all necessary and reasonable direct costs of performing the County's Obligations through the date of termination. Neither the County nor the City will be compensated for any costs in connection with a termination for convenience. Neither the County nor the City will be entitled to recover any damages in connection with a termination for convenience.

Section 6: Termination for Cause.

1. If the City or County breaches any of its obligations under this Agreement, the non-breaching party shall give written notice to the other of such default, specifying with particularity the nature of such default. If the breaching party fails within thirty (30) days of receipt of such notice of default to cure such default, or if such default cannot reasonably be cured in a thirty (30) day period, and the breaching party fails to

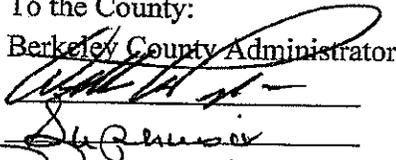


substantially begin such cure within such thirty (30) day period or fails thereafter to diligently pursue completion of such cure, the breaching party shall be deemed to be in default under this Agreement.

2. If either the City or County defaults, the non-defaulting party shall have the option, in its sole discretion, to terminate this Agreement, effective upon written notice of such termination to the Designated Representative of the Party that is in default, and upon such termination, the non-defaulting Party shall have no further obligation or liability under or pursuant to this Agreement.

Section 7: Notices. Any notice required of one party to the other under this Agreement shall be deemed given upon request of written notice in the U.S. Mail to the following address:

To the County:
Berkeley County Administrator


Berkeley County

To the City:
Mayor of Charleston
P.O. Box 304
Charleston, SC 29402

Emergency Manager
P.O. Box 304
Charleston, SC 29402

Director of Public Service
P.O. Box 304
Charleston, SC 29402

Section 8: Successors and Assigns. This Agreement and all covenants thereof shall be binding upon and insure to the benefit of the successors and assigns of the parties hereto.

Section 9: Severance. Should any part of the Agreement be determined by a court of competent jurisdiction to be invalid, illegal, or against public policy, said offending section shall be void and of no effect and shall not render any other section herein, nor this Agreement as a whole, invalid. Any terms which, by their nature, should survive the suspension, termination, or expiration hereof shall be deemed to so survive.

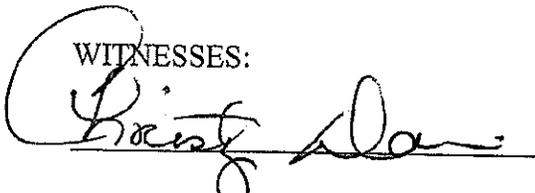
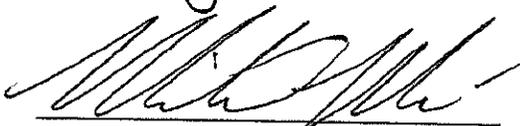
Section 10: Entire Agreement. This Agreement constitutes the entire understanding between the County and City and supersedes all prior and contemporaneous written and oral agreements regarding the subject of this Agreement. This Agreement may not be changed, altered, amended, modified, or terminated orally. Any change, alteration,

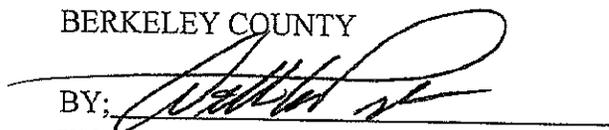


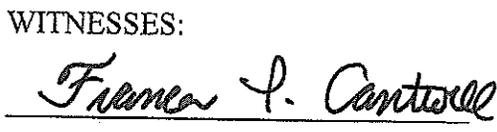
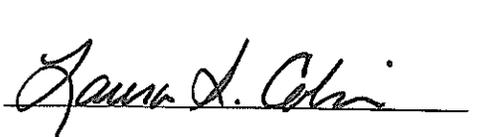
amendment, or modification shall be effective only if written and executed by both the County and the City.

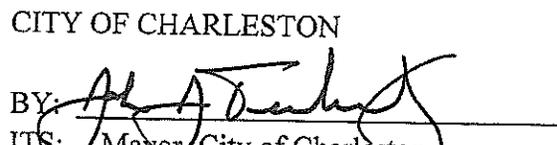
Section 11: Responsibilities and Limitation of Liability. The County and the City each agree to be responsible for the negligent or wrongful acts or omissions of their respective employees arising under this Agreement. The parties agree – subject to any limitations imposed by law, rule, or regulation – to cooperate in good faith to resolve any claims promptly and, whenever appropriate, without litigation. For all claims or suits arising under this Agreement, each party’s designated legal representatives will, within seven (7) calendar days of receipt, provide the other with copies of any documents memorializing such claims.

IN WITNESS WHEREOF, the parties hereto by their authorized representative have signed, sealed, and delivered this Agreement at Charleston, South Carolina, on the day/year written above.

WITNESSES:



BERKELEY COUNTY
BY: 
ITS: County Administrator,
Berkeley County
October 7, 2016
Date

WITNESSES:



CITY OF CHARLESTON
BY: 
ITS: Mayor, City of Charleston
10-8-2016
Date

COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor

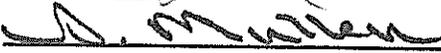
FROM: Steve Ruemelin DEPT. Police Department

SUBJECT: MUTUAL AID AGREEMENT BETWEEN CPD AND DEPARTMENT OF HOMELAND SECURITY, NATIONAL PROTECTION AND PROGRAMS DIRECTORATE, FEDERAL PROTECTION SERVICES.

REQUEST: Approve agreement to allow Federal Protective Services officers and agents to enforce state and local laws for the protection of Federal property and persons on Federal property and as needed to maintain the public peace and welfare on and in the vicinity of Federal property.

COMMITTEE OF COUNCIL: _____ DATE: _____

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

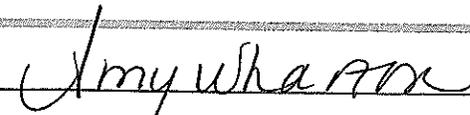
	Yes	N/A	Signature of Individual Contacted	Attachment
Corporate Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Chief of Police	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Cap. Proj. Cmte. Chair	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>
Director of Procurement	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>

FUNDING: Was funding previously approved? Yes No N/A

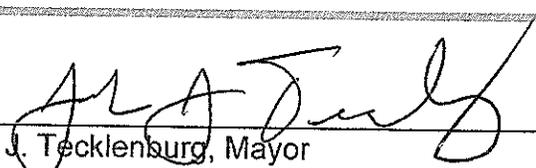
If yes, provide the following: Dept./Div: _____ Account #: _____

Balance in Account _____ Amount needed for this item _____

NEED: Identify any critical time constraint(s).

CFO's Signature: 

FISCAL IMPACT:

Mayor's Signature: 
John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.

powers, and duties to enforce the laws of this State as the law enforcement agency requesting the services; and

WHEREAS, the parties desire to enter into such agreement as provided for in Title 40, United States Code Section 1315 and the South Carolina Law Enforcement Assistance and Support Act for the purposes stated herein; and

WHEREAS, the parties desire to define the scope of such agreement and the responsibilities of the parties hereto;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

I. Parties:

A. CPD is a law enforcement authority entering into this agreement for the procurement of law enforcement services ("Law enforcement agency"-South Carolina Code Section 23-20-20 (1)).

B. DHS is a law enforcement provider providing law enforcement services to CPD pursuant to the South Carolina Law Enforcement Assistance and Support Act.

C. FPS officers and agents are employees of the Federal Protective Service of the General Service Administration transferred to DHS pursuant to the Homeland Security Act of 2002, and designated by the Secretary as officers and agents for duty in connection with the protection of property owned or occupied by the Federal Government and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

II. Authorities:

A. Title 40, United States Code, Section 1315, *Law Enforcement Authority of Secretary of Homeland Security for Protection of Public Property.*

B. Department of Justice Attorney General Guidelines for the Exercise of Law Enforcement Authorities by Officers and Agents of the Department of Homeland Security under Title 40, United States Code, Section 1315, dated February 18, 2005.

C. DHS Delegation Number 17001, *Revision No. I, Delegation to the Under Secretary for National Protection and Programs.*

D. NPPD Delegation Number 17001.101, *Delegation to the Director for the Federal Protective Service.*

E. FPS Director Memorandum, *Delegation of Authority to Enter Into and Sign Law Enforcement Mutual Support Agreements with Other Federal Law Enforcement Agencies, State and Local Governments, and Law Enforcement Agencies.*

F. Title 23, Chapter 20 of the South Carolina Code, *South Carolina Law Enforcement Assistance and Support Act*.

III. Definitions:

A. Federal Property: means buildings, grounds, and property owned, occupied or secured by the Federal Government (including any agency, instrumentality, or wholly owned or mixed ownership corporation thereof). For purposes of this agreement Federal Property shall be limited to such property located within the City of Charleston. (See attached Exhibit A).

B. Law Enforcement Services: means any law enforcement assistance or service performed by a certified FPS law enforcement officers or agents including but not limited to enforcement of State or local laws for the purposes stated herein.

C. Exclusive Jurisdiction: Only the Federal government has law enforcement authority and no reservations have been made to the state, except that the state and local officers have the authority to serve criminal and civil process resulting from activities that occurred outside the area of exclusive jurisdiction. (See attached Exhibit A).

D. Concurrent Jurisdiction: Both the state and Federal government have law enforcement authority and may enforce their respective criminal laws and prosecute those that violate the law. (See attached Exhibit A).

E. Proprietary Jurisdiction: The state has primary law enforcement authority except that the Federal government can enforce Federal laws of generality (those not limited in statute to special maritime and territorial jurisdiction) and Federal regulations.

IV. Specific Services to be Provided:

A. Assistance, Support and Aid: FPS officers and agents shall assist, support and aid CPD by providing law enforcement services, including but not limited to the proper and prudent exercise of public safety functions across jurisdictional lines and as needed to maintain the public peace and welfare, for the protection of Federal property and persons on the property and as needed to maintain the public peace and welfare on and in the vicinity of Federal property.

B. Vesting of Authority and Jurisdiction FPS officers and agents providing law enforcement services in accordance with the terms of this agreement shall be vested with the same jurisdiction, authority, powers, rights, privileges, and immunities as CPD officers acting within the scope of their subject matter and territorial jurisdiction.

C. Limitations:

1. FPS officers and agents shall only enforce State or local laws on the streets and sidewalks contiguous to Federal property in furtherance of the protection of Federal property or persons located thereon.
2. FPS shall not block, close by any means, or prevent access to the general public to any roads, sidewalks, or areas under the control and authority of CPD without the express written consent of CPD.
3. This agreement does not confer upon FPS officers and agents law enforcement authority beyond what is stated herein or otherwise provided by law.

D. Responsibilities of FPS

1. Consistent with federal law, FPS shall have primary law enforcement responsibility for Federal Property under the exclusive or concurrent jurisdiction of the Federal government with the City of Charleston, South Carolina.
2. Consistent with federal law, FPS shall continue to support CPD with regards to all Federal property under the proprietary jurisdiction of CPD.
3. In conjunction with the protection of Federal property and persons thereon, enforce state and local law on Federal property and the streets and sidewalks contiguous to Federal property within the City of Charleston.
4. Maintain a list of Federal properties located within the City of Charleston, South Carolina which may be affected by this agreement and provide said list to CPD upon request.
5. Attend any applicable state or local law enforcement familiarization training and review any appropriate materials relating to charging and processing state and or municipal laws and regulations.
6. Provide all necessary paperwork and appear in State, County or Municipal Court to prosecute cases resulting from the law enforcement services provided by FPS officers or agents pursuant to this agreement.

E. Responsibilities of CPD

1. CPD shall have primary law enforcement responsibility for the streets and sidewalks contiguous with Federal property.

V. Financial Issues.

A. Compensation and Reimbursement.

1. The parties shall be responsible for paying their own officers and agents.
2. The parties agree that compensation and/or reimbursement for services provided hereunder shall be limited to the mutual benefit to the parties of the protection of property and persons, the proper provision and prudent exercise of public safety functions and the maintenance of the public peace and welfare.
3. Any other agreement for reimbursement between the parties must be written and executed in the same manner as this agreement.

B. Costs and Expenses. Each party shall bear its own costs and expenses incurred in the performance of its obligations hereunder.

C. Insurance and Bond. It is agreed and understood that the parties hereto shall be solely responsible for maintaining such insurance protection and workers compensation coverage on its employees as may be required by law or deemed advisable by the party. The bond, if any, for any officers operating under this agreement, shall include coverage for their activity in the other jurisdiction covered by this agreement in the same manner and to the same extent provided by the bonds of regularly employed officers of that county or municipality.

VI. Arrangements for use of Equipment and Facilities.

A. Supply and Provision of Equipment and Facilities. Each party shall be responsible for the maintenance of its own equipment and shall supply the equipment for its law enforcement officers.

B. Damage to Equipment. Each party shall bear the risk of its damage or loss to its own equipment; provided, however, that if the equipment is damaged by the acts or omissions of employees of the other party, then the other party shall reimburse the damaged party for its loss.

C. Facilities. Each party shall be responsible for providing its own facilities unless otherwise agreed upon by the parties.

VII. Records and the Processing of Requests Pursuant to the Freedom of Information Act.

A. Records. Each party shall maintain its own personnel and other usually kept records as to its assigned officers. Each party shall make records relating to law enforcement activities conducted pursuant to this Agreement available to the other party upon request and without costs.

B. Processing Freedom of Information Act Requests. Each party shall be responsible for responding to Freedom of Information Act requests received by their agency. It is anticipated, but not required, that when responding to Freedom of Information Act requests the parties will consult with one another to ensure their responses to such requests are complete, consistent and in compliance with Federal and State law.

IX. Legal Contingencies.

A. Lawsuits and Payment of Damages Arising from Provided Services. Neither party shall be responsible for defending any legal action brought against the other party or its employees arising out of circumstances of this agreement, nor shall it be responsible to pay any fees, costs, damages or verdicts incurred by the other party in such a legal action.

B. No Indemnification or Third-Party Rights. The parties shall be solely responsible for the acts and omissions of their respective employees, officers and officials. No right of indemnification is created by this agreement and the parties expressly disclaim such a right. The provisions of this agreement shall not be deemed to give rise to or vest any rights or obligations in favor of any person or entity not a party to this agreement.

X. Stipulation Regarding Control Over Assisting Agency's Personnel.

A. Control. Each party shall maintain control over its personnel.

B. Employment Status. Nothing herein shall be construed or interpreted to imply that FPS officers and agents acting in accordance with this agreement shall be the employees of CPD.

XI. Term, Duration, Modification and Termination.

A. Term and Duration. This Agreement is effective as to each party at the date and time of signing and will automatically renew each anniversary date, year to year, and term to term unless a party exercises its right to terminate as further described herein.

B. Modification. This Agreement shall not be modified, amended or changed in any manner except upon the express written consent of the parties hereto.

C. Termination. This Agreement may be terminated by either party by providing written notice to the other party. Such notice becomes effective upon receipt of the notice by the other party.

XII. General Provisions.

A. Responsibility to Respective Governing Bodies Each party is responsible for any approval requirements of their respective governing body as may be required under Federal or State law. This agreement shall not become effective unless and until it is approved by the parties' governing bodies and contains all necessary signatures.

B. Severability. Should any part of this Agreement be found to be unenforceable by any court or other competent authority, the rest shall still remain in full force and effect.

C. Binding Successors in Office. All parties agree that any and all successors in interest to their offices will be similarly bound by the terms of this agreement without necessitating execution of any amendment.

IN WITNESS WHEREOF, these parties have set their hands and seals at the date set forth above.

City of Charleston:

Witness

Mayor John Tecklenburg

Witness

Chief Gregory Mullen

U.S. Department of Homeland Security
National Protection and Programs Directorate
Federal Protective Services:

Witness

Witness

Federal Protective Service

Charleston Metro

Building List

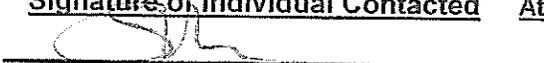
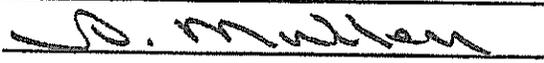
Building Number	FPS FSL	FPS Building Name	FPS Building Address	City	State	Zip	Agency Name	Jurisdiction
SC0012	4	PO-CT	81 BROAD ST	CHARLESTON	SC	29401-2202	UNITED STATES POSTAL SERVICE	Concurrent
SC0076	4	HOLLINGS JUD CTR	83 MEETING ST	CHARLESTON	SC	29401-2256	PUBLIC BUILDINGS SERVICE FIELD OFFICES	Concurrent
SC2046	4	JOSIAH HOUSE	85-87 BROAD ST	CHARLESTON	SC	29401-2202	OFFICE OF U.S. ATTORNEYS	Concurrent
SC2042	3	PARKSHORE CENTRE	1 POSTON RD	CHARLESTON	SC	29407-3424	INSPECTOR GENERAL	Proprietary
SC0011	2	U.S. CUSTOMHOUSE	200 E BAY ST	CHARLESTON	SC	29403-2611	DEFENSE CONTRACT AUDIT AGENCY	Concurrent
SC2050	2	SOUTHTRUST BANK BLDG	145 KING ST	CHARLESTON	SC	29403-2213	PUBLIC BUILDINGS SERVICE DISTRICT OFFICES	Proprietary
SC2103	2	HOLLINGS HALL	65-A Hagood Avenue	CHARLESTON	SC	29403-5107	CORPS OF ENGINEERS CIVIL	Proprietary
SC2125	2	151 MEETING STREET BUILDING	151 MEETING ST	CHARLESTON	SC	29401-2207	OFFICE OF U.S. ATTORNEYS	Proprietary
SC2138	2	TOBIAS GADSON BLDG	1463 Tobias Gadson Boulevard	CHARLESTON	SC	29407-4794	SOCIAL SECURITY ADMINISTRATION	Proprietary
SC2315	2	WACHOVIA BLDG	177 MEETING STREET	CHARLESTON	SC	29401	PUBLIC BUILDINGS SERVICE DISTRICT OFFICES	Proprietary
SC2135	1	CHARLESTON INT'L AIRPORT	5500 INTERNATIONAL BLVD	CHARLESTON	SC	29418-6911	DHS TRANSPORTATION SECURITY ADMINISTRATION	Proprietary
SC1055	3	CIS	1821 SAM RITTENBURG BLVD	CHARLESTON	SC	29407	USCIS	Proprietary

COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Steve Ruemelin DEPT. Police Department
SUBJECT: MOU BETWEEN CPD AND SLED
REQUEST: Approve MOU to upgrade latent fingerprint workstations at CPD.

COMMITTEE OF COUNCIL: _____ DATE: _____

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

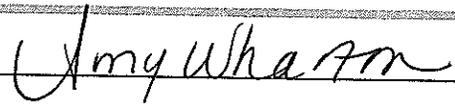
	Yes	N/A	Signature of Individual Contacted	Attachment
Corporate Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Chief of Police	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Cap. Proj. Cmte. Chair	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Director of Procurement	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>

FUNDING: Was funding previously approved? Yes No N/A

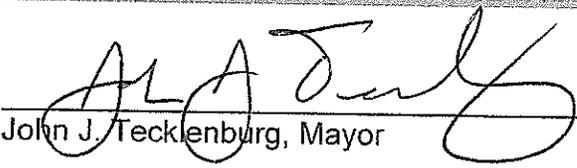
If yes, provide the following: Dept./Div: 235000 Account #: 52206

Balance in Account * _____ Amount needed for this item \$18,343.40

NEED: Identify any critical time constraint(s).

CFO's Signature: 

FISCAL IMPACT:
* Amount will be budgeted in 2017

Mayor's Signature: 
John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

MEMORANDUM OF UNDERSTANDING BETWEEN THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION AND City of Charleston Police Department PERTAINING TO THE UPGRADE OF LATENT WORKSTATIONS

1. PURPOSE

This Memorandum of Understanding ("MOU") constitutes an agreement between the South Carolina Law Enforcement Division ("SLED") and **City of Charleston Police Department** regarding the upgrade of latent workstations.

As a result of the technological advances in fingerprinting software and equipment, SLED received funding from the State of South Carolina to upgrade existing latent workstations throughout the state. The intent of this MOU is to ensure that **City of Charleston Police Department** will:

- Utilize the latent workstation on a regular basis;
- Cover all costs associated with the maintenance of the latent workstation for a minimum of 3 years; and
- Comply with the competency certification requirements.

2. AUTHORITY

SLED, in support of S.C. Code of Regulations 73-21 acts as the State's central criminal justice information repository and collects, processes, and stores criminal justice information and records necessary to the operation of the criminal justice information system of the State Law Enforcement Division. Also in support of S.C. Code of Regulations 73-21, when practicable, SLED will develop systems which will facilitate the exchange of criminal justice information between criminal justice agencies. SLED will collect, process, maintain, and disseminate information and records with due regard to the privacy of individuals, and will maintain and disseminate only accurate and complete records.



An Accredited Law Enforcement Agency

P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7588

3. SCOPE

City of Charleston Police Department will utilize the upgraded latent workstation on a regular basis. In the event a latent workstation is not being used on a regular basis, SLED has the authority to transfer the latent workstation to another law enforcement agency that has a need for such workstation.

City of Charleston Police Department will be responsible for the costs associated with the maintenance of the latent workstation for a minimum of 3 years.

City of Charleston Police Department will be responsible for complying with the competency certification requirements for access to and use of the latent workstation.

4. POINTS OF CONTACT

City of Charleston Police Department shall designate an individual as the agency's Point of Contact (POC) to this MOU who will be responsible for the adherence to this MOU on behalf of the agency and serve as the authorizing official for user access requested by the agency. **City of Charleston Police Department** may change POC at any time upon providing written notification to the SLED Criminal Justice Information Services (CJIS) Systems Officer (CSO).

5. EFFECTIVE DATES AND TERMINATION

This MOU will commence immediately upon signature by both parties. This MOU will remain in effect for the duration of the time that the latent workstation remains on site at **City of Charleston Police Department**.

6. COSTS/REIMBURSEMENTS/COMPENSATIONS/FUNDING

City of Charleston Police Department will be responsible for all costs associated with the maintenance, upgrade and operation of the latent workstation. **City of Charleston Police Department** will also be responsible for all costs associated with establishing and maintaining communications from the latent workstation to SLED's Automated Fingerprint Identification System. SLED is only responsible for the initial replacement of the existing workstation for this specific upgrade only. This MOU does not hold SLED to any further commitment for future upgrades.

7. AMENDMENTS

This MOU may not be modified or amended except by an instrument or instruments in writing signed by the party against whom enforcement of any such modification or amendment is sought. Either SLED or **City of Charleston Police Department** may, by an instrument in writing, waive compliance by the other party with any term or provision of this MOU.

8. SEVERABILITY

The provisions of this Agreement are severable, and if any provision of this Agreement shall be invalid or unenforceable to any extent or in any application, then the remainder of such provision and this Agreement, except to such extent or in such application, shall not be affected thereby, and each and every provision of this Agreement shall be valid and enforceable to the fullest extent and in the broadest application permitted by law.

9. ENTIRE AGREEMENT

This MOU contains the entire agreement between SLED and **City of Charleston Police Department** pertaining to the subject matter hereof (latent workstation upgrade). This agreement does not supersede any other agreements and is designed to complement existing agreements for use, security, etc. such as the Automated Fingerprint Identification System User Agreement.

Major Jennie Temple
CJIS Systems Officer (CSO)
South Carolina Law Enforcement Division

DATE

Chief Gregory Mullen
City of Charleston Police Department
Chief of Police

DATE