



Meeting Agenda

Work Session

Tuesday, June 8, 2021

4:30 PM

Board Room

CALL TO ORDER

CITIZEN COMMENTS

Comments on agenda items may be made in person at City Hall or by emailing recorder@franklintn.gov. Comments will be submitted for the record.

WORK SESSION DISCUSSION ITEMS (Meet in the Board Room and walk as a group through downtown.)

1. Walking Presentation On The Street Department's Main Street Sidewalk Repair Project.
(Meet in the Board Room and walk as a group through downtown. The rest of the meeting will continue upon return to the Board Room.)
CIC 3/25/21, forwarded to BOMA 4-0 for further discussion without recommendation
WS 4/13/21

Sponsors: Steve Grubb, Amanda Rose, William Banks

WORK SESSION DISCUSSION ITEMS CONTINUED (In the Board Room after the walking presentation is complete)

2. Discussion Regarding Noise In Town.
Deferred from WS 5/25/21
Sponsors: Alderman Margaret Martin
3. *Consideration Of Resolution 2021-101, A Resolution To Award The Term Contract For Concrete Work, COF Contract No. 2021-0071 To M.A.Y. Construction Company, Inc.
Sponsors: Steve Grubb
4. Acknowledgement Of Progress Report On Resolution 2020-116, A Resolution Adopting A Plan Of Services For The Annexation Of Several Properties, Located South Of Long Lane, East Of Interstate 65, Outside Of The Southeastern Part Of The Franklin Urban Growth Boundary (UGB), By The City Of Franklin, Tennessee. Establishing A Public Hearing For July 13, 2021.
Sponsors: Emily Wright, Amy Diaz-Barriga
5. Consideration Of Ordinance 2021-11, An Ordinance To Amend The City Of Franklin Municipal Code, Appendix A - Comprehensive Fees And Penalties, Chapter 13, Property Maintenance Regulations, To Establish A Short Term Vacation Rentals Permitting Fee.
Sponsors: Tom Marsh, Alex Bearden

6. Consideration Of Ordinance 2021-12, An Ordinance To Amend The City Of Franklin Municipal Code, Appendix A - Comprehensive Fees And Penalties, Chapter 14, Zoning And Land Use Control, To Establish A Site Plan Amendment Fee.
Sponsors: Tom Marsh, Alex Bearden
7. Consideration Of Ordinance 2021-13, An Ordinance To Amend The City Of Franklin Municipal Code, Appendix A - Comprehensive Fees And Penalties, Chapter 16, Streets And Sidewalks Etc., Chapter 18, Water And Sewers, And Chapter 23, Stormwater Management, To Establish An As-Built Drawings Review Fee.
Sponsors: Tom Marsh, Alex Bearden
8. Consideration Of Ordinance 2021-20, An Ordinance To Amend The City Of Franklin Municipal Code, Appendix A - Comprehensive Fees And Penalties, Chapter 12, Building, Utility, Etc., Codes, To Establish A Pre-Certificate Of Use And Occupancy Inspection Fee.
Sponsors: Tom Marsh, Alex Bearden
9. *Consideration Of Amendment 2 To COF Contract No. 2016-0267, A Local Agency Project Agreement (TDOT No. 160125) With The Tennessee Department Of Transportation For The SR-96 West Multi-Use Trail - Phases 1 & 2 (TDOT PIN 123098.00) For A Time Extension Of 1 Year.
Sponsors: Paul Holzen, Jonathan Marston, David Hodnett
10. Consideration Of COF Contract No. 2021-0093 Road Impact Fee Offset Agreement with Southvale, LLC.
Sponsors: Paul Holzen
11. Consideration Of Resolution 2021-103, A Resolution To Appoint Jessica Davey As Clerk Of The City Court Of Franklin, Tennessee, And To Vest Her With All Powers Provided To The Clerk By The Franklin City Charter And The Franklin City Code.
Sponsors: Maricruz Fincher
12. Consideration Of Procurement Award To Haren Construction Company, Inc. Of Etowah, Tennessee In The Total Estimated Amount Of \$3,882,000 For Construction Of (1) A Southeast Basin Pilot Treatment Facility For The Water Management Department Sewer Impact Division And (2) A Reclaimed Water Booster Pump Station at the Redwing Meadows Subdivision For The Water Management Department Reclaimed General Division (Purchasing Office Procurement Solicitation No. 2021-010; Funds To Be Budgeted In 432-89230-52241 And 441-89230-52329, Respectively, For Fiscal Year 2022; Contract No. 2021-0069).
Sponsors: Michelle Hatcher, Brian Goodwin

OTHER BUSINESS

ADJOURN

Anyone needing accommodations due to disabilities please contact the ADA Coordinator at 615-791-3277 at least 24 hours prior to the meeting.



File #: 21-01858

DATE: June 1, 2021
TO: Board of Mayor and Aldermen
FROM: Steve Grubb, Director of Streets
Amanda Rose, Preservation Planner
William Banks, Staff Engineer

SUBJECT:

Walking Presentation On The Street Department's Main Street Sidewalk Repair Project.
(Meet in the Board Room and walk as a group through downtown. The rest of the meeting will continue upon return to the Board Room.)
CIC 3/25/21, forwarded to BOMA 4-0 for further discussion without recommendation
WS 4/13/21

PURPOSE:

The purpose of this memorandum is to provide a presentation to the Franklin Board of Mayor and Aldermen (BOMA) concerning the upcoming Main Street Sidewalk Repair Project.

BACKGROUND/STAFF COMMENTS:

The original Main Street streetscape project was completed in the early 1990's. The existing brick pavers along Main Street, from 5th Ave. N to 1st Ave. N/S are now faded and uneven, creating numerous ADA issues. In addition, the sidewalk tree grates are aging and need to be replaced. The Street Department spends a significant amount of funding annually to maintain and fix the brick pavers located in the sidewalks and crosswalks.

On August 13, 2019, the Board of Mayor and Aldermen approved Resolution 2019-68, adopting the project list for the FY 2019-2028 CIP (Capital Investment Program). The Main Street Sidewalk Repair Project was included in this list with an estimated cost of \$2,200,000.00. The project is proposing to replace all the brick pavers, brick crosswalks, and sidewalk tree grates from 5-Points to 1st Ave, to bring Main Street up to current ADA standards and refresh the aesthetics of downtown. The intent is to also save as much of the concrete infrastructure as possible, including the sidewalks, curbs, and borders, to help reduce costs. This project will decrease long term brick paver maintenance and decrease the number of ADA deficiency issues that occur on an annual basis.

To help develop an updated project scope, the Street Department and Engineering Department recognized the need to work with our ongoing streetscape consultant, CT Consultants, and have them prepare new project schematics and concept artist renderings. Details of this design work included the following:

1. Prepare a plan to illustrate the proposed sidewalk improvements and alternatives for existing

sidewalk tree wells, focusing on Main Street from 4th Ave. to 3rd Ave. as the sample project area:

- a. Treatments for tree wells in their current locations, such as new tree grates, planted cutouts, permeable pavers, or other potential solutions.
 - b. Incorporation of additional curb extensions with relocated tree wells and the associated impacts to parking and circulation.
 - c. Review tree well and curb extension alternatives with City and determine desired treatment.
2. Recommend type of brick, color, and pattern to be used in sidewalks and crosswalks at each location to replace the faded existing pre-cast concrete pavers.
 3. Recommend alternatives for parking along the perimeter of the square to provide a surface that can be re-stripped with paint as needed.

Development of the schematics and concept artist renderings were also influenced through collaboration between multiple departments, such as Planning, Parks, Street, and Engineering. Together, the following items were discussed and may need to be developed further and finalized as the project moves forward:

1. Additional design for the proposed sidewalk improvements to ensure ADA compliance.
2. Finalize the viability of the alternative curb extensions/bioretention areas for tree wells, allowing for a wider sidewalk. Main Street underground basements need to be investigated and surveyed to make sure any tree well relocations or bioretention areas don't compromise these. Underground utility conflicts also need to be reviewed.
3. The proposed street tree varieties have been developed and were coordinated with multiple Landscape Architects and the Parks Dept. Urban Forestry Superintendent.
4. The existing engraved memorial/dedication pavers – Staff have had multiple discussions over the last year on how to navigate the possible reuse, relocation, or remanufacture of these, as they are in poor condition. Staff plans to seek input from the Heritage Foundation and other downtown associations, including the business owners along Main Street. Staff would like to bring options back to the Board, based off the public input, to request guidance on an ultimate plan for the memorial pavers.
5. Phasing – The project spans all of Main Street, from 5 Points to 1st Ave. Staff originally planned to begin the first phase of the sidewalk repair project within the block of 2nd Ave and 1st Ave. Another option is to focus the first phase of the project around the two blocks from 5th Ave through The Square (3rd Ave), because of the heavy pedestrian usage and utilization for scheduled events.
6. Coordination with the City Hall Facility Project and what is designed for the sidewalk and crosswalks near City Hall.

Attached for your review is a presentation showing the engraved memorial paver issues and concepts for possible street tree upgrades.

FINANCIAL IMPACT:

As part of the initial project funding from the FY 2019-2028 CIP, \$250,000.00 has already been allocated to the Main Street Sidewalk Repair Project. Staff have already utilized \$12,700 for schematics and artist renderings. Staff may in the near future propose utilizing some of the remaining allocated funds to bring a designer on board and help with the following:

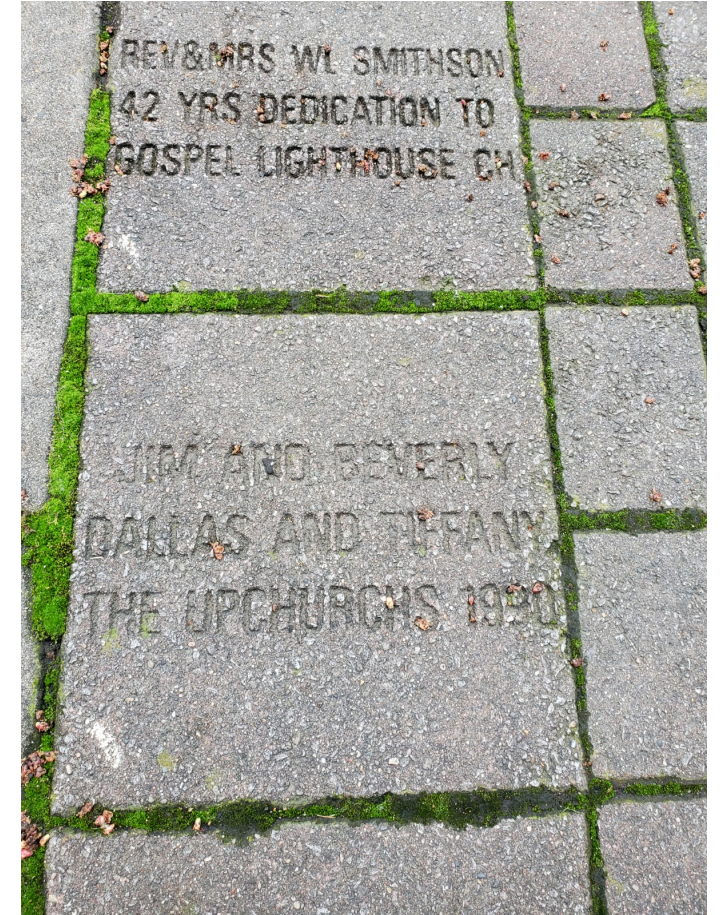
1. Verify existing drainage and utility conflicts.
2. Use the city's ADA transition plan to focus on correcting critical ADA non-compliance areas.
3. Produce a sidewalk and tree well relocation design that will allow project phasing scopes and cost estimates to be developed.
4. Help produce the necessary plans for bidding out a future construction project.

Once the Board and public input is gathered, staff can begin working with a designer to prepare a proposal for the above items (if the project scope deems this necessary).

RECOMMENDATION:

Staff is seeking guidance and recommendations on the initial concept renderings before any downtown public engagement begins.

Existing Conditions



Paver Options

1. Re-engrave and replace in-kind, resized to 4x8 or 8x8 bricks
2. Re-engrave and relocate to Public Square in “border” locations that will allow for lesser wear and tear
3. Re-engrave and use in open space or plaza areas of new City Hall development
4. Remove entirely and do not replace

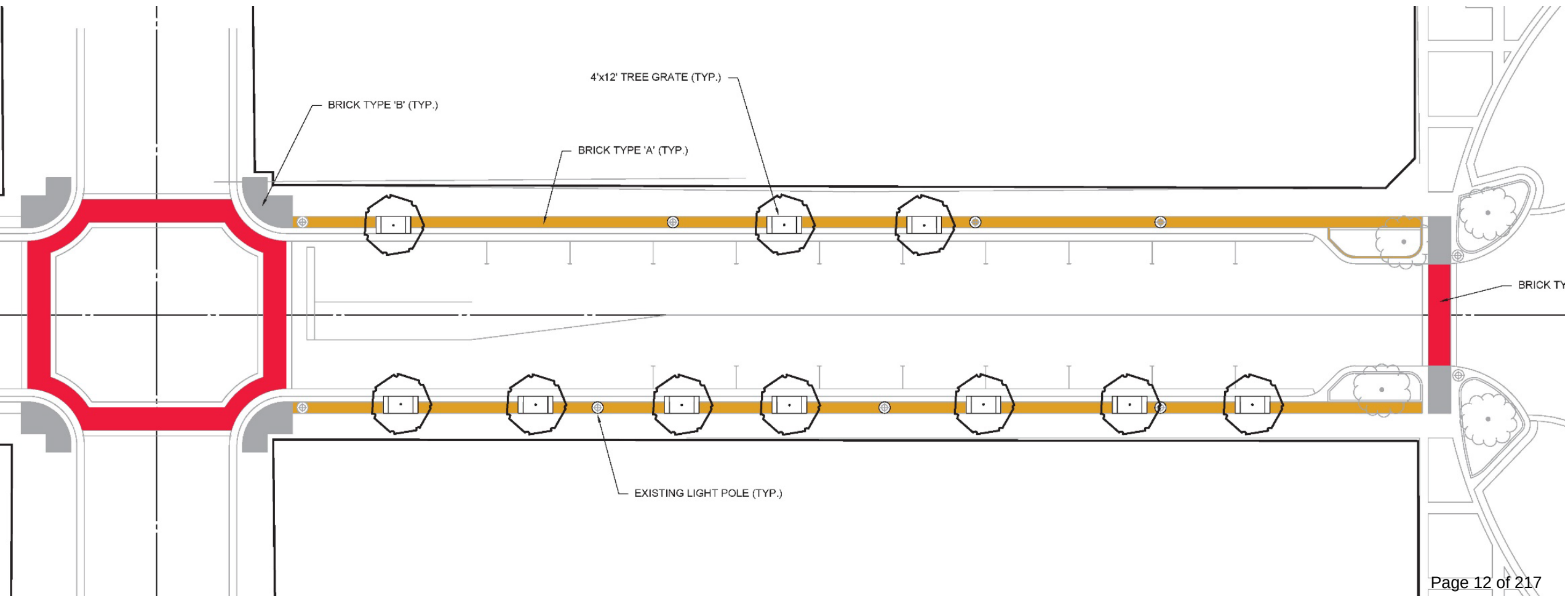
Existing Conditions





Concept A

- Enlarges and lengthens existing tree pits to allow for tree root growth/mature trees
- Allows for longer tree growth/less paver maintenance
- Decreases length of sidewalk surface space (width remains the same)
- Results in no parking loss

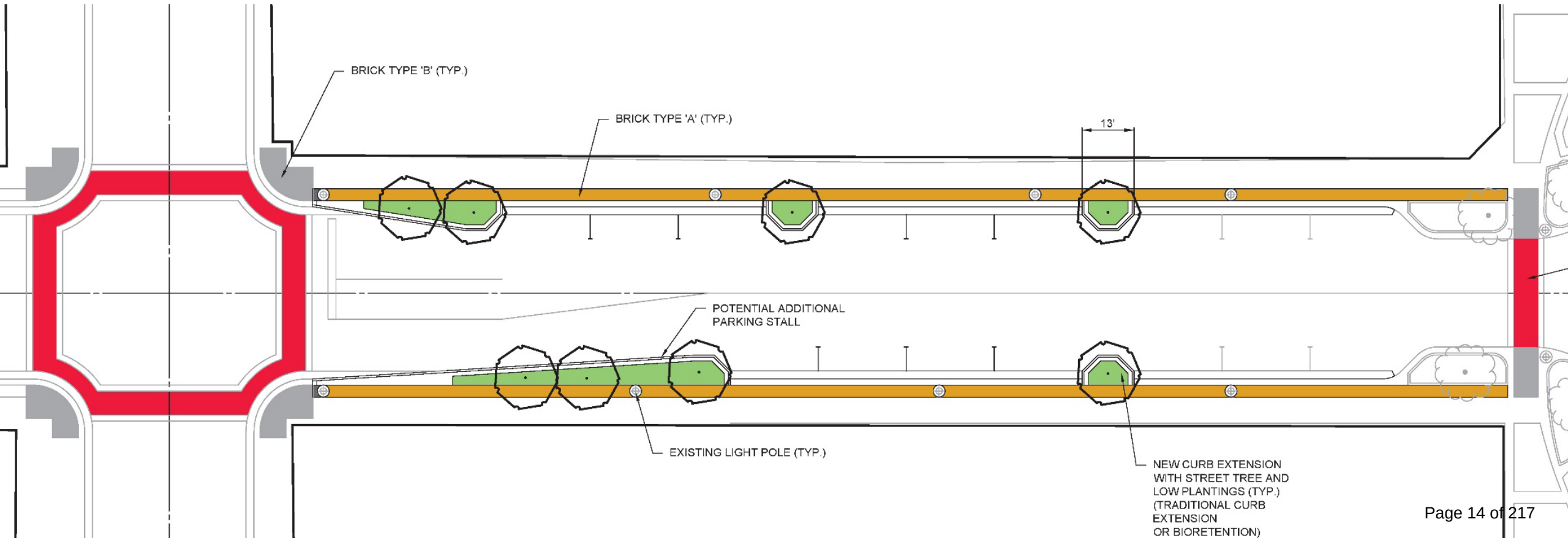


Concept A: Existing Conditions + Rendering



Concept B

- Allows for larger, mature trees
- Reduces one parking space on each block face
- Allows for wider sidewalk areas where bulb-outs exist

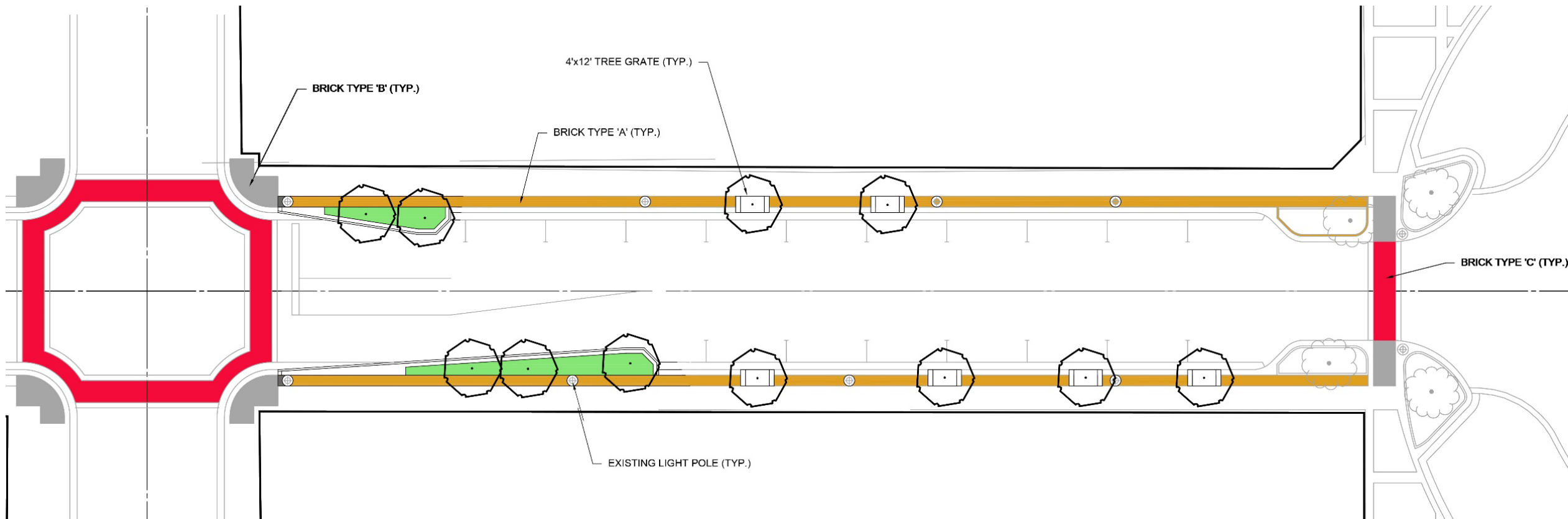


Concept B – Rendering



Concept C: Hybrid Approach

- Larger Tree Pits + Additional Bulb-outs in existing striped areas
- Results in no parking loss



Existing Conditions



Concept C – Rendering



Bulb-out Example



Bulb-out Example



Bulb-out Example





File #: 21-02053

DATE: May 18, 2021
TO: Board of Mayor and Aldermen
FROM: Eric Stuckey, City Administrator
Steve Grubb, Director of Streets

SUBJECT:

*Consideration Of Resolution 2021-101, A Resolution To Award The Term Contract For Concrete Work, COF Contract No. 2021-0071 To M.A.Y. Construction Company, Inc.

PURPOSE:

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning Resolution 2021-101.

BACKGROUND/STAFF COMMENTS:

This contract work is for the construction, re-construction, and improvements to the City's concrete infrastructure such as sidewalk, curb and gutter, access ramps, driveway approaches etc. On May 21, 2021, sealed bids for the Term Contract For Concrete Work (COF Contract No. 2021-0094) were received by the City's Street Department and were publicly opened and read aloud. After an analysis of the competitive bid process, City staff recommends award of the term contract for concrete work to M.A.Y. Construction Company, Inc.

FINANCIAL IMPACT:

This contract is set up on an as needed basis, administered by the Street Dept. The bid package was based on general use quantities, by utilizing historical data. This contract is funded through annual budget process.

RECOMMENDATION:

Staff recommends that the Board of Mayor and Aldermen approve Resolution 2021-101

RESOLUTION 2021-101

A RESOLUTION TO AWARD THE TERM CONTRACT FOR CONCRETE WORK, COF CONTRACT NO. 2021-0071 TO M.A.Y. CONSTRUCTION COMPANY, INC.

WHEREAS, the Term Contract For Concrete Work may be utilized by any City department and shall be managed by the Street Department; and

WHEREAS, the unit prices contained within the Term Contract For Concrete Work generally includes the labor, materials, and equipment necessary to perform the work as listed in the contract; and

WHEREAS, on May 21, 2021, sealed bids for the Term Contract For Concrete Work (COF Contract No. 2021-0071) were received by the City's Street Department at City Hall, 109 3rd Avenue South, Franklin, Tennessee 37064 and were publicly opened and read aloud; and

WHEREAS, after an analysis of the competitive bid process, City staff recommends award of the Term Contract For Concrete Work to M.A.Y. Construction Company, Inc., who is the low bidder, based upon a bid amount of \$1,322.00; and

WHEREAS, the quantities listed in the bid documents are not guaranteed work and are simply used to obtain an accurate bid comparison; and

WHEREAS, the funding to be authorized for expenditure in association with COF Contract No. 2021-0071 shall be approved by the City of Franklin Board of Mayor and Aldermen as either a part of the City's Annual Operating & Capital Equipment Budget or via a separate Resolution or Ordinance; and

WHEREAS, the contract duration and listed unit prices shall be valid through June 30, 2022, at which time the City Administrator may elect to extend the contract duration for one (1) year, with a maximum of two (2) one (1) year extensions, provided the City and M.A.Y. Construction Company, Inc., agree to the extension.

NOW THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that:

Section 1. Approval is granted to award the Term Contract For Concrete Work (COF Contract No. 2021-0071) to M.A.Y Construction Company.

Section 2. The City Administrator, Assistant City Administrators, and/or Street Department Directors are hereby authorized to execute work orders and approve the spending of funds programmed for the construction and maintenance of City infrastructure via the Term Contract For Concrete Work (COF Contract No. 2021-0071).

Section 3. The City Administrator, Assistant City Administrators, and/or Street Department Director are hereby authorized to execute change orders to add incidental work items to the contract that conform to the original intent of the work as bid.

Section 4. The City Administrator is hereby authorized to extend the contract duration by one (1) year, up to a maximum of two (2) one (1) year extensions.

IT IS SO RESOLVED AND DONE on this _____ day of _____, 2021.

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
Eric S. Stuckey
City Administrator

By: _____
Dr. Ken Moore
Mayor

Approved as to Form:

By: _____
Shauna R. Billingsley, City Attorney

LOCATION: FRANKLIN, TN
PROJECT: FY 2021 TERM CONTRACT
PROJ. DESC.: CONCRETE WORK
COF CONTRACT #: 2021-0071
REVISION DATE: March 23, 2021

CONCRETE WORK (COF Contract No. 2021-0071) BID ITEMS

This project is to be constructed under the Tennessee Department of Transportation Standard Specifications for Road and Bridge Construction, the City of Franklin Transportation and Street Technical Standards, and additional specifications & special provisions contained in the construction documents.

ITEM NO.	ITEM DESCRIPTION	NOTE(S)	UNIT	EST. QTY.	AVERAGE COST		M.A.Y. CONSTRUCTION CO.		SESSIONS PAVING CO.		PAVEMENT RESTORATION, INC.	
					UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
202-03	REMOVAL OF RIGID PAVEMENT, SIDEWALK, ETC.	1-10, 11	S.Y.	1	\$34.00	\$34.00	\$32.00	\$32.00	\$30.00	\$30.00	\$40.00	\$40.00
202-08.15	REMOVAL OF CURB AND GUTTER (EXTRUDED, DETACHED, COMBINED, ETC.)	1-10, 11	L.F.	1	\$18.33	\$18.33	\$20.00	\$20.00	\$25.00	\$25.00	\$10.00	\$10.00
203-01	ROAD & DRAINAGE EXCAVATION (UNCLASSIFIED)	1-10	C.Y.	1	\$65.00	\$65.00	\$40.00	\$40.00	\$80.00	\$80.00	\$75.00	\$75.00
303-01	MINERAL AGGREGATE, TYPE A BASE, GRADING D	1-10	TON	1	\$41.67	\$41.67	\$35.00	\$35.00	\$35.00	\$35.00	\$55.00	\$55.00
407-20.05	SAW CUTTING ASPHALT PAVEMENT	1-10	L.F.	1	\$7.00	\$7.00	\$8.00	\$8.00	\$8.00	\$8.00	\$5.00	\$5.00
502-04.01	SAWING CONCRETE PAVEMENT (FULL DEPTH)	1-10	L.F.	1	\$12.67	\$12.67	\$8.00	\$8.00	\$15.00	\$15.00	\$15.00	\$15.00
502-06	RUBBERIZED EXPANSION JOINT (PER CITY STD., ASTM D1752 TYPE I/AASHTO M 153 TYPE I)	1-10	L.F.	1	\$4.67	\$4.67	\$5.00	\$5.00	\$6.00	\$6.00	\$3.00	\$3.00
604-02.01	CLASS A CONCRETE	1-10	C.Y.	1	\$551.67	\$551.67	\$120.00	\$120.00	\$550.00	\$550.00	\$985.00	\$985.00
604-02.02	STEEL BAR REINFORCEMENT	1-10	LB.	1	\$5.33	\$5.33	\$1.00	\$1.00	\$10.00	\$10.00	\$5.00	\$5.00
604-02.03	EPOXY COATED REINFORCING STEEL	1-10	LB.	1	\$7.33	\$7.33	\$1.00	\$1.00	\$15.00	\$15.00	\$6.00	\$6.00
611-09.01	ADJUSTMENT OF EXISTING CATCH BASIN	1-10	EACH	1	\$595.33	\$595.33	\$1.00	\$1.00	\$500.00	\$500.00	\$1,285.00	\$1,285.00
611-09.05	ADJUSTMENT OF CASTINGS AND BOXES IN SIDEWALK	1-10	EACH	1	\$328.67	\$328.67	\$1.00	\$1.00	\$600.00	\$600.00	\$385.00	\$385.00
617-05	SEALANT (EXPOSED AGGREGATE)	1-10	S.F.	1	\$4.67	\$4.67	\$4.00	\$4.00	\$5.00	\$5.00	\$5.00	\$5.00
701-01.01	CONCRETE SIDEWALK (4-INCH DEPTH, PER CITY STANDARD)	1-10, 12	S.F.	1	\$12.00	\$12.00	\$11.00	\$11.00	\$11.00	\$11.00	\$14.00	\$14.00
701-01.03	CONCRETE SIDEWALK (EXPOSED AGGREGATE, 4-INCH DEPTH, PER CITY STANDARD)	1-10, 12	S.F.	1	\$15.00	\$15.00	\$10.00	\$10.00	\$13.00	\$13.00	\$22.00	\$22.00
701-01.07	EXPOSED AGGREGATE CONCRETE DRIVEWAY (6-INCH DEPTH, PER CITY STANDARD)	1-10	S.F.	1	\$16.50	\$16.50	\$10.00	\$10.00	\$14.50	\$14.50	\$25.00	\$25.00
701-01.10	CONCRETE SIDEWALK (8-INCH DEPTH, PER CITY STANDARD)	1-10, 12	S.F.	1	\$13.73	\$13.73	\$12.00	\$12.00	\$13.20	\$13.20	\$16.00	\$16.00
701-02	CONCRETE DRIVEWAY (6-INCH DEPTH, PER CITY STANDARD)	1-10	S.F.	1	\$13.40	\$13.40	\$11.00	\$11.00	\$14.20	\$14.20	\$15.00	\$15.00
701-02.02	CONCRETE DRIVEWAY (8-INCH DEPTH, PER CITY STANDARD)	1-10	S.F.	1	\$14.80	\$14.80	\$12.00	\$12.00	\$15.40	\$15.40	\$17.00	\$17.00
701-02.03	CONCRETE CURB RAMP (8-INCH DEPTH, PER CITY STANDARD)	1-10, 12, 13	EACH	1	\$1,485.00	\$1,485.00	\$500.00	\$500.00	\$2,600.00	\$2,600.00	\$1,355.00	\$1,355.00

CONCRETE WORK (COF Contract No. 2021-0071) BID ITEMS

This project is to be constructed under the Tennessee Department of Transportation Standard Specifications for Road and Bridge Construction, the City of Franklin Transportation and Street Technical Standards, and additional specifications & special provisions contained in the construction documents.

ITEM NO.	ITEM DESCRIPTION	NOTE(S)	UNIT	EST. QTY.	AVERAGE COST		M.A.Y. CONSTRUCTION CO.		SESSIONS PAVING CO.		PAVEMENT RESTORATION, INC.	
					UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
702-01 (A)	CONCRETE CURB (TDOT DETACHED TYPE A; RP-NMC-10)	1-10	L.F.	1	\$40.00	\$40.00	\$35.00	\$35.00	\$50.00	\$50.00	\$35.00	\$35.00
702-01 (B)	CONCRETE CURB (COF RIBBON; RP-3)	1-10	L.F.	1	\$35.00	\$35.00	\$20.00	\$20.00	\$50.00	\$50.00	\$35.00	\$35.00
702-01.01	EXTRUDED MOUNTABLE CURB (6-INCH)	1-10	L.F.	1	\$28.33	\$28.33	\$30.00	\$30.00	\$25.00	\$25.00	\$30.00	\$30.00
702-03 (A)	CONCRETE COMBINED CURB & GUTTER (COF ROLLOVER; RP-2A)	1-10	L.F.	1	\$46.00	\$46.00	\$45.00	\$45.00	\$51.00	\$51.00	\$42.00	\$42.00
702-03 (B)	CONCRETE COMBINED CURB & GUTTER (COF 6-24; RP-2B)	1-10	L.F.	1	\$47.00	\$47.00	\$45.00	\$45.00	\$51.00	\$51.00	\$45.00	\$45.00
702-03 (C)	CONCRETE COMBINED CURB & GUTTER (TDOT 6-30; RP-NMC-10)	1-10	L.F.	1	\$48.33	\$48.33	\$45.00	\$45.00	\$55.00	\$55.00	\$45.00	\$45.00
721-01.06	IRRIGATION SYSTEM (REPAIR)	1-10, 14	L.S.	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
801-01	SEEDING (WITH MULCH)	1-10, 15	UNIT	1	\$100.00	\$100.00	\$50.00	\$50.00	\$100.00	\$100.00	\$150.00	\$150.00
920-10.01	REMOVE, RESET & LEVEL EXISTING BRICK PAVERS (TRAFFIC BEARING AREAS)	1-10, 16	S.F.	1	\$46.67	\$46.67	\$50.00	\$50.00	\$50.00	\$50.00	\$40.00	\$40.00
920-10.02	REMOVE, RESET & LEVEL EXISTING BRICK PAVERS (NON-TRAFFIC BEARING AREAS)	1-10, 17	S.F.	1	\$42.67	\$42.67	\$40.00	\$40.00	\$48.00	\$48.00	\$40.00	\$40.00
920-10.03	INSTALLATION OF NEW BRICK PAVERS (2.75-IN PAVERS ON CONCRETE BASE)	1-10, 18	S.F.	1	\$61.67	\$61.67	\$60.00	\$60.00	\$75.00	\$75.00	\$50.00	\$50.00
920-10.04	INSTALLATION OF NEW BRICK PAVERS (2.25-INCH PAVERS ON CONCRETE BASE)	1-10, 19	S.F.	1	\$58.33	\$58.33	\$60.00	\$60.00	\$65.00	\$65.00	\$50.00	\$50.00
					BASE BID TOTAL:	\$3,800.77	BASE BID TOTAL:	\$1,322.00	BASE BID TOTAL:	\$5,180.30	BASE BID TOTAL:	\$4,900.00

I hereby certify to the best of my knowledge that this is a true and correct record with all errors and extension(s) of unit price(s) corrected.

Paul Holzen
(Printed Name)

Director of Eng
(Title)

Paul Holzen
(Signature)

5/25/21
(Date)

NOTES:

- 1 Unit price bid shall include all materials, equipment, and labor necessary to successfully complete the installation of work item.
- 2 Contract unit prices shall be valid through June 30, 2024. Provided the Bidder and the City agree to an extension, the City Administrator may elect to extend the contract by one (1)
- 3 Work hours will be from 7AM until 6PM Monday through Friday excluding City Holidays. All Work outside of these hours will require prior approval by the City. If work is required
- 4 Individual Work Orders and Construction schedules will be established for each project and will have a mutually agreed upon date for substantial competition. The Contractor agrees
- 5 Quantities shown for bidding purposes only. Payment shall be based on actual work completed, not by quantity bid.
- 6 No minimum or maximum work order quantity (e.g. scope of work) is guaranteed or implied by this contract.
- 7 Measurement and Payment of quantities shall be in accordance with Section 109 of the current edition of the Tennessee Department of Transportation (TDOT) *Standard*
- 8 The Contractor shall obtain approval and submit to the City of Franklin a traffic control plan for work within the roadways prior to starting construction.
- 9 Temporary Traffic Control shall at all time be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD). Temporary Traffic Control shall not be paid for directly but
- 10 Mobilization and demobilization of the prime contractor and all subcontractor forces supplies, equipment and incidentals at the project site shall not be measured or paid for directly
- 11 Unit price bid shall include proper disposal of removed material.
- 12 Unit price bid shall include the use, per manufacturer's recommendation(s), of an approved sealing and curing compound, such as Silencure-A by ChemMasters, on all finished
- 13 Unit Price bid shall include all materials, equipment, and labor necessary to successfully install a *Public Right-of-Way Accessibility Guidelines* (PROWAG) compliant curb ramp, as
- 14 Contractor shall be paid "Cost + Five (5) Percent (%)" for incidental irrigation repairs. For the purposes of this bid item, cost shall be defined as: (a) Materials *plus* Labor for contractor
- 15 Installation shall be in accordance with Section 801 of the current edition of the TDOT *Standard Specifications for Road and Bridge Construction* . Unit price bid shall include any
- 16 Unit price bid shall include: four (4) inches of Base Stone, four (4) inches of Class A Concrete, one (1) inch of concrete/masonry sand, and the use of polymeric sand between paver
- 17 Unit price bid shall include the use of concrete/masonry sand to raise & level pavers and the use of polymeric sand between paver joints. The finished surface of the pavers shall be
- 18 See City of Franklin Standard Drawing No. SS-1, which can be found in the Supplemental Conditions.
- 19 See City of Franklin Standard Drawing No. SS-2, which can be found in the Supplemental Conditions.



File #: 21-02092

DATE: May 25, 2021

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Emily Wright, Planning Director
Amy Diaz-Barriga, Planning Supervisor

SUBJECT:

Acknowledgement Of Progress Report On Resolution 2020-116, A Resolution Adopting A Plan Of Services For The Annexation Of Several Properties, Located South Of Long Lane, East Of Interstate 65, Outside Of The Southeastern Part Of The Franklin Urban Growth Boundary (UGB), By The City Of Franklin, Tennessee. Establishing A Public Hearing For July 13, 2021.

PURPOSE:

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning the progress reports required by State Law, for Plans of Services adopted by the City of Franklin.

BACKGROUND/STAFF COMMENTS:

Changes were made to State Law, effective May 2015, that affected the annexation process, including the Plan of Services adopted as part of an annexation. Not only is a Plan of Service required for any annexation considered by a municipality, but a progress report is required six months after the adoption of the Plan of Services and annually thereafter until such a time as the City has fulfilled all of its obligations. The progress report is required to be published in a newspaper of general circulation, and a public hearing is required to be held. The progress report provided identifies only the City's obligations for extending services to the annexed properties. It should be noted that many times, the Plan of Services is written to require the extension of public infrastructure as development occurs, and not necessarily immediately after an annexation becomes effective.

This public hearing addresses the Plan of Services for nine properties, 4339 Long Lane, 4460 Pratt Lane, 4431 Dyke Bennett Road, and 4478, 4482, 4484, 4540, 4501, and 4511 Peytonsville Road. These properties were annexed by referendum, effective on December 19, 2020. There have been no development plans submitted yet to the City for any of these properties. At this time, the City has fulfilled any and all of its obligations as outlined in Resolution 2020-116. There will be no other reports given for this Plan of Services.

FINANCIAL IMPACT:

Thus far, additional staffing resources or equipment has been deemed unnecessary to provide services to the annexed properties.

RECOMMENDATION:

Staff recommends that the Board of Mayor and Aldermen acknowledge the Plan of Services Progress Report for Resolution 2020-116.

Progress Report

Public Hearing Date: July 13, 2021

Purpose: to provide the annual report on the status of the extension of services according to the Plan of Services and any changes proposed, as required by TCA § 6-51-108 for the following Plan of Services:

Resolution 2020-116, A Resolution Adopting A Plan Of Services For The Annexation Of Several Properties, Located South Of Long Lane, East Of Interstate 65, Outside Of The Southeastern Part Of The Franklin Urban Growth Boundary (UGB), By The City Of Franklin, Tennessee. (Effective 12/19/2020)

Properties:

Map	Parcel	Address
106	179.01	4339 Long Lane
117	33.02	4478 Peytonsville Road
117	33.03	4482 Peytonsville Road
117	33.05	4484 Peytonsville Road
117	38.00	4540 Peytonsville Road
117	44.00	4501 Peytonsville Road
117	45.01	4431 Dyke Bennett Road
117	45.02	4460 Pratt Lane
117	45.03	4511 Peytonsville Road

Services	City's Obligation	Status of City's Obligation
Water	No obligations of the City; Milcrofton provider	Fulfilled
Reclaimed Water	None; Owners will be required to extend reclaimed water	Fulfilled
Wastewater	None; Owners are required to extend the sanitary sewer mains, providing all components necessary to do so.	Fulfilled
Stormwater	None; Owners are required to extend the stormwater infrastructure, providing all components necessary to do so.	Fulfilled
Streets	Emergency maintenance of streets begins with effective date of annexation; An Interlocal Agreement with the County addressing the maintenance of roads and bridges shall be drafted.	Fulfilled; County declined City request to establish Interlocal Agreement.
Traffic Control	No additional traffic control devices required for annexation	Fulfilled
Street Lighting	No additional off-site street lighting required for annexation	Fulfilled
Street Name Signs	No additional street name signs required for annexation	Fulfilled
Fire Protection	Fire Protection begins on and after the effective date of annexation	Fulfilled

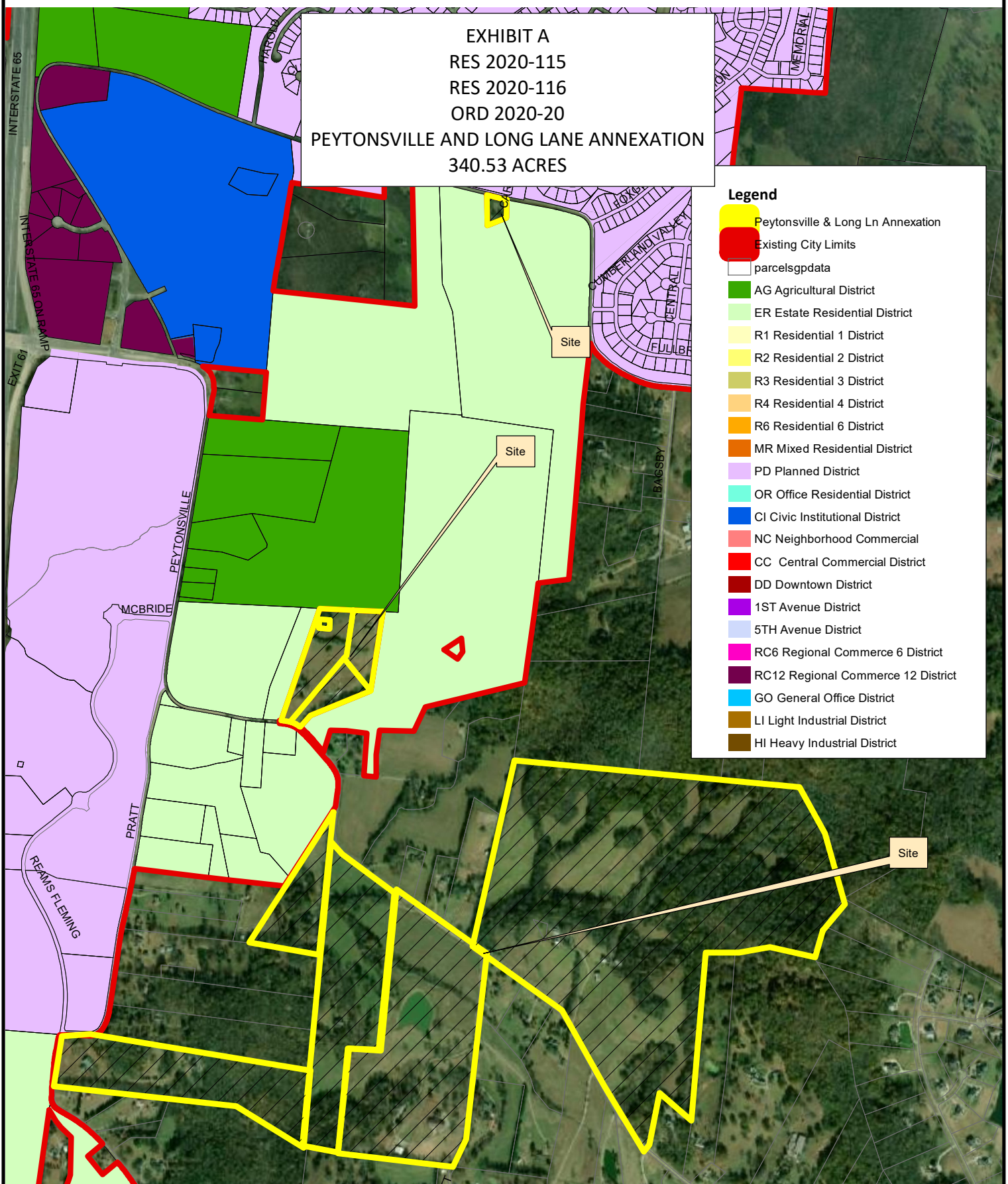
Planning and Zoning	Property to be zoned pursuant to the Franklin Zoning Ordinance	Fulfilled
Parks and Recreation	Benefit and use of all City recreational facilities and programs made available	Fulfilled
Police Protection	Police patrol and response to calls by the Franklin Police Department on and after the effective date of annexation	Fulfilled
Building and Code Inspection Services	Building and code inspection services to begin in the annexed area on and after the effective date of annexation	Fulfilled
Garbage and Recycling Pickup and Environmental Services	Sanitation and Environmental Services will begin providing services in the annexed area	Fulfilled

Status: At this time, the City has fulfilled its obligations, and no other reports will be provided for this Plan of Services.

EXHIBIT A
RES 2020-115
RES 2020-116
ORD 2020-20
PEYTONSVILLE AND LONG LANE ANNEXATION
340.53 ACRES

Legend

- Peytonsville & Long Ln Annexation
- Existing City Limits
- parcelsgdata
- AG Agricultural District
- ER Estate Residential District
- R1 Residential 1 District
- R2 Residential 2 District
- R3 Residential 3 District
- R4 Residential 4 District
- R6 Residential 6 District
- MR Mixed Residential District
- PD Planned District
- OR Office Residential District
- CI Civic Institutional District
- NC Neighborhood Commercial
- CC Central Commercial District
- DD Downtown District
- 1ST Avenue District
- 5TH Avenue District
- RC6 Regional Commerce 6 District
- RC12 Regional Commerce 12 District
- GO General Office District
- LI Light Industrial District
- HI Heavy Industrial District



0 500 1,000 2,000 3,000 4,000
Feet



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RESOLUTION 2020-116

A RESOLUTION ADOPTING A PLAN OF SERVICES FOR THE ANNEXATION OF SEVERAL PROPERTIES, LOCATED SOUTH OF LONG LANE, EAST OF INTERSTATE 65, OUTSIDE OF THE SOUTHEASTERN PART OF THE FRANKLIN URBAN GROWTH BOUNDARY (UGB), BY THE CITY OF FRANKLIN, TENNESSEE.

WHEREAS, Tennessee Code Annotated (T.C.A.) § 6-51-102, as amended, requires that a Plan of Services be adopted by a municipal governing body prior to an annexation; and

WHEREAS, the property owners as listed below petitioned the Board of Mayor and Aldermen (BOMA) of the City of Franklin, Tennessee (City), to annex nine (9) parcels, containing 340 +/- acres, located outside of the Franklin Urban Growth Boundary (UGB); and

WHEREAS, the Properties are located south of Long Lane and east of Interstate 65, as described herein and as depicted on the Map attached hereto as Exhibit A:

Map	Parcel	Acreage	Address	Owner
106	179.01	1.40	4339 Long Lane	Randall Ray Baskin, III
117	33.02	8.36	4478 Peytons ville Road	Heath & Jennifer Adams
117	33.03	4.36	4482 Peytons ville Road	Kenneth & Annon sa Groves
117	33.05	4.65	4484 Peytons ville Road	Kenneth Groves
117	38.00	189.0	4540 Peytons ville Road	Thomas Beasley
117	44.00	11.4	4501 Peytons ville Road	Jerry Samuel Lee, Jr.
117	45.01	56.4	4431 Dyke Bennett Road	Jon & Kathy Yarbrough
117	45.02	29.69	4460 Pratt Lane	Reedy Family Trust
117	45.03	35.00	4511 Peytons ville Road	David E. & Mona F. Brown
		340.53	TOTAL ACRES	

WHEREAS, this resolution shall bind the Owners and subsequent Owners of the Property; and

WHEREAS, the Franklin Municipal Planning Commission has reviewed and recommended the Plan of Services for the annexation area; and

WHEREAS, a public hearing was held following public notice as required by T.C.A. § 6-51-102, as amended; and

WHEREAS, it is believed it is in the best interest of the City to adopt a Plan of Services for the area petitioned to be annexed in order to provide for future development in accordance with City standards; and

WHEREAS, this resolution shall not bind the City to later annex the Property.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, AS FOLLOWS:

SECTION I. Pursuant to the provisions of T.C.A. §§ 6-51-102 and 6-51-104 (d) (4), as amended, there is hereby adopted, for the area bounded as described above, the following Plan of Services:

The Properties are located south of Long Lane and east of Interstate 65, as described herein and as depicted on the Map attached hereto as Exhibit A:

Map	Parcel	Acreage	Address	Owner
106	179.01	1.40	4339 Long Lane	Randall Ray Baskin, III
117	33.02	8.36	4478 Peytons ville Road	Heath & Jennifer Adams
117	33.03	4.36	4482 Peytons ville Road	Kenneth & Annon sa Groves
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117	38.00	189.0	4540 Peytons ville Road	Thomas Beasley
117	44.00	11.4	4501 Peytons ville Road	Jerry Samuel Lee, Jr.
117	45.01	56.4	4431 Dyke Bennett Road	Jon & Kathy Yarbrough
117	45.02	29.69	4460 Pratt Lane	Reedy Family Trust
117	45.03	35.00	4511 Peytons ville Road	David E. & Mona F. Brown
		340.53	TOTAL ACRES	

A. Water

1. The Property is located within the Milcrofton service area.
2. Water availability shall be approved and provided through Milcrofton prior to annexation.
3. The Owner shall be required to provide adequate fire flow and pressure to the Property.

B. Reclaimed Water

1. According to the City of Franklin's Municipal Code, reclaimed water systems shall be extended to a development if the development is located within 1,000 feet of an existing reclaimed water line.
2. In the case of these Properties, an extension of reclaimed water infrastructure will be required to serve any developing Property pending jurisdiction of this area for Reclaimed Water.

C. Wastewater

1. The proposed development of the Properties is anticipated to construct only after the property is rezoned at a later date, to a City zoning district matching their proposed development plans.
2. The Owner of each property shall be required to extend the sanitary sewer mains and interceptors necessary to provide service to the Property.

3. The sanitary sewer mains and interceptors shall be sized according to the expected demands of development in the sewer basins being served by said infrastructure, as determined by a sanitary sewer study deemed acceptable by the City of Franklin.
4. The Owner shall be required to submit engineering calculations to determine final sizing requirements.
5. The Owner shall be required to provide Engineering design, construction, easements, rights-of-way and the costs associated with the on-site sanitary sewer infrastructure required to serve the development of this Property.
6. The Owner shall be responsible for the payment of fees per the policies and procedures outlined in Franklin Municipal Code.

D. Stormwater

1. The Owner shall be responsible for the engineering, design and construction of the necessary stormwater infrastructure for the development of the Property and shall comply with the requirements as outlined in the Franklin Municipal Code.
2. As the Property develops, the City will charge prevailing stormwater user fees per policies and procedures as outlined in the Franklin Municipal Code.

E. Streets

1. Emergency maintenance of streets will begin on the effective date of annexation.
2. Reconstruction and resurfacing of streets, routine maintenance, and installation of storm drainage will be accomplished under existing City policies.
3. Access to the Property shall be provided from Peytonsville Road and the future extension of Carothers Parkway. An alignment study and traffic impact analysis is needed at the development plan stage to address roadway widths and access management for this region.
4. Unless waived by the Franklin Engineering Department, the Owner of the Property shall be required to submit a traffic impact study prior to submitting a development plan for review and approval. The exact scope associated with this traffic impact study shall be determined prior to submittal of the development plan. Required street improvements shall be determined as part of the plan. The roadways constructed as part of this development shall comply with City Street Standards.

F. Traffic Control

1. Traffic signals, traffic signs, street markings, and other traffic control devices shall be installed as the need is established by appropriate study and traffic standards. No needs have been identified for the area at this time.
2. New development after the effective date of annexation shall comply with City regulations governing traffic control devices and markings.

G. Street Lighting

1. No off-site street lighting is proposed at this time.
2. Street lighting within new developments shall be funded and installed by the Owner per City policy, which includes the installation of electric meters to allow for future ownership and maintenance by the City or homeowners association. The installation and operation of street lights shall coincide with the phasing of development and issuance of Certificates of Occupancy.

- H. Street Name Signs
1. No additional street name signs in the area have been deemed necessary.
 2. New development shall install street name signs per City policy.
- I. Fire Protection
1. Fire protection by the present personnel and equipment of the Franklin Fire Department will be provided on and after the effective date of annexation.
 2. No additional manpower or equipment will be necessary to serve the annexation area at this time.
- J. Planning and Zoning
1. The planning and zoning jurisdiction of the City will extend to the annexed area on and after the effective date of annexation.
 2. Upon annexation, the Planning Commission will amend Envision Franklin to include these parcels into the document, including assigning Design Concepts for all parcels.
 3. Upon annexation, the Property will be zoned by the Board of Mayor and Aldermen to a Zoning District and any applicable Overlay Zoning District(s), pursuant to the requirements of the Franklin Zoning Ordinance. If the Owner has requested the Planned District, they shall be required to submit a Development Plan, pursuant to the Franklin Zoning Ordinance.
- K. Parks and Recreation
1. The benefit and use of the recreational facilities and programs provided by the Parks Department will be available on and after the effective date of the annexation. Recreational facilities and programs will be provided with existing personnel, facilities and resources.
 2. New development in the annexed area shall comply with the City of Franklin Parkland Dedication Ordinance.
- L. Police Protection
1. Police patrol and response to calls by the Franklin Police Department will be provided on and after the effective date of annexation.
 2. Police services will be provided with existing personnel and equipment.
- M. Building and Code Inspection Services
1. Building and code inspection services will begin in the annexed area on and after the effective date of the annexation.
 2. New development in the annexed area shall comply with adopted City Building Codes, pay the applicable fees, and obtain the required permits for inspection services.
- N. Garbage and Recycling Pickup and Environmental Services
1. The Sanitation and Environmental Services Department will begin providing services in the annexed area on and after the effective date of the annexation in accordance with adopted City requirements.
 2. *** ALTERNATE LANGUAGE FOR NON-RESIDENTIAL / APARTMENTS / INSTITUTIONAL USES*** The Sanitation and Environmental Services Department will begin providing services in the annexed area on and after the effective date of the annexation in accordance with adopted City requirements. The Owner does not have to use the City as a provider, but the Owner shall be responsible for providing refuse collection services as a matter of public health. The Owner shall present a plan for service for refuse collection services for approval

by the Sanitation and Environmental Services Department, and shall be required to install required dumpster enclosures if dumpsters will be used for holding refuse between scheduled service days.

3. No additional manpower or equipment will be necessary to serve the annexation area at this time.

SECTION II. This Resolution shall be contingent upon the certification of the election for annexation and take effect 30 days after the certification of the election.

ADOPTED THIS _____.

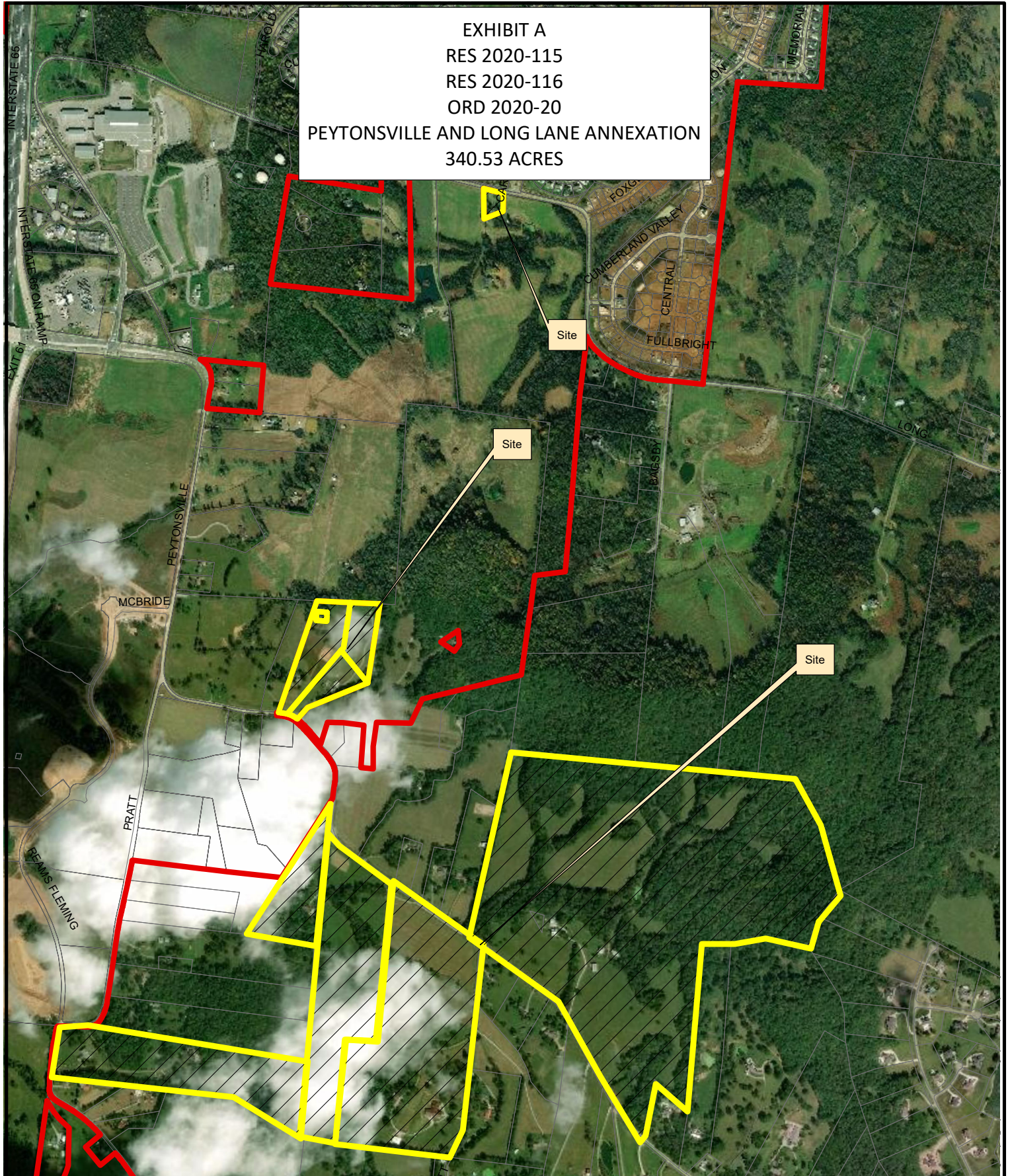
ERIC S. STUCKEY
City Administrator

DR. KEN MOORE
Mayor

Approved as to form by:

Sauna R. Billingsley
City Attorney

EXHIBIT A
 RES 2020-115
 RES 2020-116
 ORD 2020-20
 PEYTONSVILLE AND LONG LANE ANNEXATION
 340.53 ACRES



Legend

- Peytonsville & Long Ln Annexation
- Existing City Limits
- parcelsgpdata

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File #: 21-02032

DATE: May 3, 2021
TO: Board of Mayor and Aldermen
FROM: Eric Stuckey, City Administrator
Tom Marsh, Director of BNS
Alex Bearden, Development Services Operations Analyst

SUBJECT:

Consideration Of Ordinance 2021-11, An Ordinance To Amend The City Of Franklin Municipal Code, Appendix A - Comprehensive Fees And Penalties, Chapter 13, Property Maintenance Regulations, To Establish A Short Term Vacation Rentals Permitting Fee.

PURPOSE:

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning the establishment of an annual permitting fee for short term vacation rentals.

BACKGROUND/STAFF COMMENTS:

In June of 2015, Ordinance 2015-06 was enacted, requiring that property owners operating short term vacation rentals (STVR) obtain an annual permit for this use. Since this ordinance was adopted, the number of STVR permits issued has grown to a total of 210 currently active permits.

Per Section 13-214 of the Municipal Code, Annual Application Required: "STVR application fees are as stated in appendix A, comprehensive fees and penalties." Although the Ordinance refers to an annual fee to be collected for an STVR permit, no associated fee has yet been assigned.

As the total amount of active permits has increased between 2015 and now, so have the administrative costs associated with this program. To cover these costs, which include the processing of permit applications, inspection of properties, and enforcement of the Municipal Code standards relating to STVR properties, an annual permitting fee of \$50.00 is being proposed, to be collected at the time of issuance and renewal of a permit.

FINANCIAL IMPACT:

Revenue of \$50.00 per permit to help offset the associated administrative costs.

RECOMMENDATION:

Staff recommends that the Board of Mayor and Aldermen approve Ordinance 2021-11.

ORDINANCE 2021-11

**AN ORDINANCE TO AMEND THE CITY OF FRANKLIN MUNICIPAL CODE,
APPENDIX A – COMPREHENSIVE FEES AND PENALTIES, CHAPTER 13, PROPERTY
MAINTENANCE REGULATIONS, TO ESTABLISH A SHORT-TERM VACATION
RENTALS PERMITTING FEE.**

WHEREAS, due to the increased popularity of the short-term vacation rental industry, the City of Franklin has received an increase of short-term vacation rental permit applications; and

WHEREAS, the City has allowed short-term vacation rental permits to be issued in accordance with the requirements set forth in Title 13, Chapter 2 of the City of Franklin Municipal Code; and

WHEREAS, no permitting fee is currently enacted to cover the administrative costs of the short-term vacation rentals permitting program; and

WHEREAS, in consideration of application review, processing, inspection, and enforcement associated with short-term vacation rentals, it is necessary to set fees for the City of Franklin to cover such administration.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FRANKLIN BOARD OF MAYOR AND ALDERMEN, AS FOLLOWS:

SECTION I. That Appendix A of the City of Franklin Municipal Code is hereby amended to add the following text noted below, describing the Short-Term Vacation Rentals to read as follows:

**APPENDIX A – COMPREHENSIVE FEES AND PENALTIES
CHAPTER 13 – PROPERTY MAINTENANCE REGULATIONS**

Short-Term Vacation Rentals	
Short-Term Vacation Rentals Permitting Fee	\$50.00 annually

SECTION II. BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the health, safety, and welfare of the citizens of Franklin, Tennessee, requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
Eric S. Stuckey
City Administrator/Recorder

By: _____
Dr. Ken Moore
Mayor

Approved as to form by:

William E. Squires
Assistant City Attorney

PASSED FIRST READING

PASSED SECOND READING:



File #: 21-02033

DATE: May 3, 2021

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Tom Marsh, Director of BNS
Alex Bearden, Development Services Operations Analyst

SUBJECT:

Consideration Of Ordinance 2021-12, An Ordinance To Amend The City Of Franklin Municipal Code, Appendix A - Comprehensive Fees And Penalties, Chapter 14, Zoning And Land Use Control, To Establish A Site Plan Amendment Fee.

PURPOSE:

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning the establishment of a site plan amendment fee.

BACKGROUND/STAFF COMMENTS:

Site plan amendments are a tool to use when applicants need to make minor changes to approved site plans that require review and approval by multiple departments. Although site plan amendments deal with minor changes to approved site plans, the administrative costs incurred by the City are significant due to a full review by the Development Review Team being required with each application.

Currently, no review fee is collected with a site plan amendment application. To offset the administrative costs incurred by this review, a site plan amendment fee of \$250.00 is proposed to be created. The amount of this fee reflects the more minor changes associated with the process, and the fee is less than half of the cost of a site plan or site plan revision application.

FINANCIAL IMPACT:

Revenue of \$250.00 per site plan amendment application to offset the associated administrative costs.

RECOMMENDATION:

Staff recommends that the Board of Mayor and Aldermen approve Ordinance 2021-13

ORDINANCE 2021-12

**AN ORDINANCE TO AMEND THE CITY OF FRANKLIN MUNICIPAL CODE,
APPENDIX A – COMPREHENSIVE FEES AND PENALTIES, CHAPTER 14, ZONING
AND LAND USE CONTROL, TO ESTABLISH A SITE PLAN AMENDMENT REVIEW
FEE.**

WHEREAS, The City of Franklin provides plan review services related to private development to ensure compliance with various City Ordinances, City Development Standards, and Federal and State Requirements; and

WHEREAS, due to the cost of materials and labor, it is necessary for the City of Franklin to set fees to be partially reimbursed for these costs; and

WHEREAS, the City of Franklin’s plan review fees are lower than those of many surrounding municipalities; and

WHEREAS, the City of Franklin has a growing number of staff reviewing plans to keep up with the rising pace and complexity of plan submittals.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FRANKLIN BOARD OF MAYOR AND ALDERMEN, AS FOLLOWS:

SECTION I. That Appendix A of the City of Franklin Municipal Code is hereby amended to add the following text noted below, describing the Site Plan Amendment Review to read as follows:

**APPENDIX A – COMPREHENSIVE FEES AND PENALTIES
CHAPTER 14 - ZONING LAND USE AND CONTROL**

Site plan amendment review	\$250.00
----------------------------	----------

SECTION II. BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the health, safety, and welfare of the citizens of Franklin, Tennessee, requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
Eric S. Stuckey
City Administrator/Recorder

By: _____
Dr. Ken Moore
Mayor

Approved as to form by:

William E. Squires
Assistant City Attorney

PASSED FIRST READING:

PASSED SECOND READING:



File #: 21-02034

DATE: May 3, 2021
TO: Board of Mayor and Aldermen
FROM: Eric Stuckey, City Administrator
Tom Marsh, Director of BNS
Alex Bearden, Development Services Operations Analyst

SUBJECT:

Consideration Of Ordinance 2021-13, An Ordinance To Amend The City Of Franklin Municipal Code, Appendix A - Comprehensive Fees And Penalties, Chapter 16, Streets And Sidewalks Etc., Chapter 18, Water And Sewers, And Chapter 23, Stormwater Management, To Establish An As-Built Drawings Review Fee.

PURPOSE:

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning the establishment of an as-built drawings review fee.

BACKGROUND/STAFF COMMENTS:

As-built drawings are documents that provide a detailed blueprint of completed construction of a site, and are used to identify deviations between the approved plan set and the work performed in the field. As-built plan submittals and reviews are an important step in the construction process that require the review and approval of multiple City departments.

Currently, no review fee is collected with as-built drawing submittals. To offset the administrative costs associated with the plan review, an as-built drawing review fee of \$200.00 is proposed to be created.

FINANCIAL IMPACT:

Revenue of \$200.00 per as-built plan submittal to offset the associated administrative costs.

RECOMMENDATION:

Staff recommends that the Board of Mayor and Aldermen approve Ordinance 2021-12.

ORDINANCE 2021-13

**AN ORDINANCE TO AMEND THE CITY OF FRANKLIN MUNICIPAL CODE,
APPENDIX A – COMPREHENSIVE FEES AND PENALTIES, CHAPTER 16, STREETS
AND SIDEWALKS, ETC., AND CHAPTER 18, WATER AND SEWERS, TO ESTABLISH
AN AS-BUILT DRAWINGS REVIEW FEE.**

WHEREAS, the City of Franklin provides plan review services related to private development to ensure compliance with various City Ordinances, City Development Standards, and Federal and State Requirements; and

WHEREAS, plan review services are provided for the public health, safety, and welfare; and

WHEREAS, due to the cost of materials and labor, it is necessary for the City of Franklin to set fees to be partially reimbursed for these costs; and

WHEREAS, no fee is currently enacted to cover the administrative costs of the review of submitted as-built drawings.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FRANKLIN BOARD OF MAYOR AND ALDERMEN, AS FOLLOWS:

SECTION I. That Appendix A of the City of Franklin Municipal Code is hereby amended to add the following text noted below, describing the Streets and Sidewalks As-Built Review to read as follows:

**APPENDIX A – COMPREHENSIVE FEES AND PENALTIES
CHAPTER 16 – STREETS AND SIDEWALKS, ETC.**

<i>Right-of-Way Permit, Plan Review, and Inspection Fee</i>	
Streets as-built drawings review fee	\$200.00

SECTION II. That Appendix A of the City of Franklin Municipal Code is hereby amended to add the following text noted below, describing the Water and Sewers As-Built Review to read as follows:

**APPENDIX A – COMPREHENSIVE FEES AND PENALTIES
CHAPTER 18 – WATER AND SEWERS**

<i>Review Fees</i>	
Water & sanitary sewer as-built drawings review fee	\$200

SECTION III. BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the health, safety, and welfare of the citizens of Franklin, Tennessee, requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
Eric S. Stuckey
City Administrator/Recorder

By: _____
Dr. Ken Moore
Mayor

Approved as to form by:

William E. Squires
Assistant City Attorney

PASSED FIRST READING:

PASSED SECOND READING:



File #: 21-02080

DATE: May 19, 2021
TO: Board of Mayor and Aldermen
FROM: Eric Stuckey, City Administrator
Tom Marsh, Director of BNS
Alex Bearden, Development Services Operations Analyst

SUBJECT:

Consideration Of Ordinance 2021-20, An Ordinance To Amend The City Of Franklin Municipal Code, Appendix A - Comprehensive Fees And Penalties, Chapter 12, Building, Utility, Etc., Codes, To Establish A Pre-Certificate Of Use And Occupancy Inspection Fee.

PURPOSE:

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning the establishment of a pre-certificate of occupancy inspection fee.

BACKGROUND/STAFF COMMENTS:

Pre-certificate of use and occupancy inspections are a service that is provided by the Building and Neighborhood Services Department to assist members of the construction community who have active building permits that are nearing the end of construction. The purpose of this service is to assist contractors in the late stages of development by identifying any remaining issues that need to be resolved prior to a certificate of use and occupancy being issued. These inspections have been offered by the Building and Neighborhood Services Department for some time, and help to ensure that construction projects are completed efficiently and effectively.

Although pre-certificate of occupancy inspections have been offered for some time, no reference to this service is made in the Municipal Code. Due to this, an amendment is being proposed to add this item to the Municipal Code. The creation of this item will assist with ensuring that the construction community is aware of this service, as well as allow for a charge to be associated with this inspection if it is deemed to be necessary in the future.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends that the Board of Mayor and Aldermen approve Ordinance 2021-20.

ORDINANCE 2021-20

**AN ORDINANCE TO AMEND THE CITY OF FRANKLIN MUNICIPAL CODE,
APPENDIX A – COMPREHENSIVE FEES AND PENALTIES, CHAPTER 12, BUILDING,
UTILITY, ETC., CODES, TO ESTABLISH A PRE-CERTIFICATE OF USE AND
OCCUPANCY INSPECTION FEE.**

WHEREAS, the City of Franklin requires that a new building not be occupied or a change made in the occupancy, nature or use of a building, part of a building or structure until after a certificate of use and occupancy has been issued; and

WHEREAS, in preparation of future amendments to City of Franklin Municipal Code Section 12-105. – Certificate of use and occupancy, a pre-certificate of use and occupancy inspection is being created to notify the community that City of Franklin staff will perform this inspection free of charge.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FRANKLIN BOARD OF MAYOR AND ALDERMEN, AS FOLLOWS:

SECTION I. That Appendix A of the City of Franklin Municipal Code is hereby amended to add the following text noted below, describing the Pre-Certificate of Use and Occupancy Inspection Fee to read as follows:

**APPENDIX A – COMPREHENSIVE FEES AND PENALTIES
CHAPTER 12 – BUILDING, UTILITY, ETC., CODES, ETC.**

Pre-Certificate of Use and Occupancy Inspection Fee	\$0.00
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SECTION II. BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the health, safety, and welfare of the citizens of Franklin, Tennessee, requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
Eric S. Stuckey
City Administrator/Recorder

By: _____
Dr. Ken Moore
Mayor

Approved as to form by:

William E. Squires
Assistant City Attorney

PASSED FIRST READING:

PASSED SECOND READING:



File #: 21-02086

DATE: May 25, 2021
TO: Board of Mayor and Aldermen
FROM: Eric Stuckey, City Administrator
Paul Holzen, Director of Engineering
Jonathan Marston, Asst. Director of Engineering
David Hodnett, Staff Engineer

SUBJECT:

*Consideration Of Amendment 2 To COF Contract No. 2016-0267, A Local Agency Project Agreement (TDOT No. 160125) With The Tennessee Department Of Transportation For The SR-96 West Multi-Use Trail - Phases 1 & 2 (TDOT PIN 123098.00) For A Time Extension Of 1 Year.

PURPOSE:

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning Amendment No. 2 to the Local Agency Project Agreement (COF Contract No. 2016-0267 / TDOT Agreement No. 160125) with the Tennessee Department of Transportation (TDOT) for the SR-96 West Multi-Use Trail - Phases 1 & 2 (TDOT PIN 123098.00).

BACKGROUND/STAFF COMMENTS:

On September 13, 2016, the BOMA approved a LAPA (COF Contract No. 2016-0267 / TDOT Agreement No. 160125) with TDOT to accept \$800,000 in Federal Transportation Alternative Program (TAP) funds toward the construction of the SR-96 West Multi-Use Trail, from Vera Valley Drive to 5th Avenue North. This agreement also allows the City to manage the project locally. On September 12, 2017, the BOMA approved Amendment No. 1 to the LAPA, which awarded an additional \$1,000,000 in Federal TAP funds toward the construction of this project

Since that time, the project team has completed design and right-of-way acquisition. Following a competitive bid process in late 2020, a Notice to Proceed with construction was issued with an effective date of January 4, 2021. The total contract time is 365 calendar days, placing the date of substantial completion at January 4, 2022. However, the current agreement with TDOT stipulates a project completion deadline of July 1, 2021, which would not allow for full reimbursement of this construction project, as it is only half complete. However, TDOT understands the situation and has developed Amendment No. 2, which allows for a 1 year extension of the project completion deadline, which will now become July 1, 2022. This is more than enough time to complete construction and to obtain full benefit of the \$1,800,000 in TAP funds.

FINANCIAL IMPACT:

There is no direct cost associated with Amendment No. 2, as it is a time extension only.

RECOMMENDATION:

Staff recommends that the Board of Mayor and Aldermen approve Amendment 2 to COF Contract No. 2016-0267 (TDOT Agreement No. 160125).

Amendment Number: 2

Agreement Number: 160125

Project Identification Number: 123098.00 (COF Contract No. 2016-0267)

Federal Project Number: TAP-96(49)

State Project Number: 94LPLM-F3-092

**FOR IMPLEMENTATION OF SURFACE TRANSPORTATION
PROGRAM ACTIVITY**

THIS AGREEMENT AMENDMENT is made and entered into this _____ day of _____, 20____ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the CITY OF FRANKLIN (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

SR-96 West Multi-Use Trail - Phases 1 & 2: Construction of a multi-use trail along Highway 96 West from Vera Valley Drive to 5th Ave North. Project also includes a retaining wall, ADA upgrades, striping, landscaping and pedestrian amenities.

1. The language of Agreement # 160125 dated October 3, 2016 Section B.2a is hereby deleted in its entirety.
2. The following is added as B.2a.

B.2 Completion Date

- a) The Agency shall complete the herein assigned phases of the Project on or before **July 1, 2022**. The Department shall have no obligation to reimburse the Agency for expenditures after the aforesaid completion date. An extension of the aforesaid completion date of this Agreement may only be effected by a written amendment to the Agreement, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement. Otherwise, without an extension of the aforesaid completion date of this Agreement, the Department shall have no obligation to reimburse the Agency for expenditures after the aforesaid completion date.

Amendment Changing the Completion Date
All provisions of the original contract not expressly amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

CITY OF FRANKLIN

STATE OF TENNESSEE

DEPARTMENT OF TRANSPORTATION

By: _____ By: _____
Ken Moore Date Clay Bright Date
Mayor Commissioner

**APPROVED AS TO FORM AND
LEGALITY**

**APPROVED AS TO FORM AND
LEGALITY**

By: _____ By: _____
Maricruz Fincher Date John Reinbold Date
Staff Attorney General Counsel



File #: 21-01963

DATE: May 25, 2021
TO: Board of Mayor and Aldermen
FROM: Eric Stuckey, City Administrator
Paul Holzen, Director of Engineering

SUBJECT:

*Consideration Of COF Contract No. 2021-0093 Road Impact Fee Offset Agreement with Southvale, LLC.

PURPOSE:

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning the Consideration Of COF Contract No. 2021-0093.

BACKGROUND/STAFF COMMENTS:

The Southvale PUD Subdivision is required to construct the following improvements:

- A portion of McLemore Road Project 91 in Connect Franklin. This is a minor collector road and qualifies for reimbursement in Title 16, Chapter 4 of the Franklin Municipal Code.
- A new traffic signal at the intersection of Lewisburg Pike and Stream Valley Blvd. This signal is identified on the Traffic Signal Master Plan and qualifies for reimbursement in Title 16, Chapter 4 of the Franklin Municipal Code.

FINANCIAL IMPACT:

ELIGIBLE ARTERIAL ROAD IMPACT FEE REIMBURSEMENT. The total eligible costs of design, right-of-way acquisition, easement acquisition, permits, and construction of the above arterial roadway Improvements is **(Six Hundred Fifty Thousand and 00/100) (\$650,000.00)** for the Development Project and the total reimbursement to the Developer is estimated to be **(Six Hundred Fifty Thousand and 00/100) (\$650,000.00)**. At no time shall reimbursement exceed the arterial impact fees collected as part of the Development Project.

ELIGIBLE COLLECTOR ROAD IMPACT FEE REIMBURSEMENT. The total eligible costs of design, right-of-way acquisition, easements acquisition, permits, and construction of the above collector roadway Improvements is **(One Million Three Hundred Twenty Four Thousand Eight Hundred Seventy-Six and 00/100) (\$1,324,876.00)** for the Development Project and the total reimbursement to the Developer is **(One Million Three Hundred Twenty Four Thousand Eight Hundred Seventy-Six and 00/100) (\$1,324,876.00)**. At no time shall reimbursement exceed the collector impact fees collected as part of the Development Project.

RECOMMENDATION:

Staff recommends that the Board of Mayor and Aldermen approve COF Contract No. 2021-0093.

**ROAD IMPACT FEE REIMBURSEMENT AGREEMENT
COF CONTRACT NO. 2021-0093**

This agreement ("Agreement") is entered into between THE CITY OF FRANKLIN, TENNESSEE ("City") and Southvale, LLC, ("Developer"), on this the _____ day of _____, 20____, pursuant to Title 16, Chapter 4 of the Franklin Municipal Code ("FMC").

WHEREAS, the Developer has previously submitted to the Franklin Municipal Planning Commission Southvale PUD Subdivision COF Project #7495 for approval (the "Development Project"); and

WHEREAS, the City has required the Developer to design, acquire right-of-way, acquire easements, obtain permits, and construct certain roadway improvements (the "Improvements") as a requirement of the Development Project and as shown on Exhibit A; and

WHEREAS, the Improvements required as part of the Development Project are identified in the City's Major Thoroughfare Plan, Connect Franklin; and

WHEREAS, the Developer has made application to offset a portion of the costs of these improvements against any Road Impact Fees due from the Development Project.

NOW THEREFORE, the City and the Developer, their successors, and assigns, do hereby agree as follows:

1. **PURPOSE.** The purpose of this Agreement is to define the obligations of the parties necessary to carry out the intent of this Agreement for the provision of reimbursement of collector and arterial road impact fees pursuant to the FMC.

2. **TERM.** This Agreement shall become effective on the date it is fully executed and shall continue until the parties have fully fulfilled their obligations provided hereunder or until the agreement is terminated as provided herein. Understanding the large financial investment each party is making, this Agreement shall only be terminated for convenience upon written agreement of the parties.

3. **PROJECT.** The Developer has submitted reliable information related to the costs of construction of the following Improvements:

- Install a new traffic signal at the intersection of Lewisburg Pike and Stream Valley Blvd. This future traffic signal is on the Traffic Signal Master Plan.
- Provide an east/west minor collector roadway stub from Lewisburg Pike to line up with the future McLemore connection.

4. **ELIGIBLE ARTERIAL ROAD IMPACT FEE REIMBURSEMENT.** The total eligible costs of design, right-of-way acquisition, easement acquisition, permits, and construction of the above arterial roadway Improvements is **Six Hundred Fifty Thousand and 00/100 Dollars (\$650,000.00)** for the Development Project and the total reimbursement to the Developer is estimated to be **Six Hundred Fifty Thousand and 00/100 Dollars (\$650,000.00)**. At no time shall reimbursement exceed the arterial impact fees collected as part of the Development Project.

5. **ELIGIBLE COLLECTOR ROAD IMPACT FEE REIMBURSEMENT.** The total eligible costs of design, right-of-way acquisition, easements acquisition, permits, and construction of the above collector roadway Improvements is **One Million Three Hundred Twenty-Four Thousand Eight Hundred Seventy-Six and 00/100 Dollars (\$1,324,876.00)** for the Development Project and the total reimbursement to the

Developer is **One Million Three Hundred Twenty-Four Thousand Eight Hundred Seventy-Six and 00/100 Dollars (\$1,324,876.00)**. At no time shall reimbursement exceed the collector impact fees collected as part of the Development Project.

6. APPROVAL OF CONTRACTS AND AGREEMENTS. The City Engineer shall review and approve all professional services agreements, right-of-way and easement acquisition offers (that exceed the appraised value of the acquisition), and construction bids associated with the Improvements. The Developer shall obtain approval prior to the spending of any funding in which the Developer is seeking reimbursement from the City. The Developer agrees that failure to obtain contract approval from the City Engineer may result in loss of City reimbursement as determined by the City Engineer.

7. APPROVAL OF CONSTRUCTION DOCUMENTS. Prior to starting right-of-way acquisition, easement acquisition, and construction, the Developer shall submit construction documents to the City Engineer for review and approval. The Developer agrees that failure to obtain approval from the City Engineer may result in loss of City reimbursement as determined by the City Engineer.

8. PERMITS. The Developer shall be solely responsible for obtaining and complying with all necessary local, state, and federal permits associated with the Improvements.

9. ON-SITE RIGHT-OF-WAY AND EASEMENT DEDICATION. The reimbursement value of on-site right-of-way shall be based on the fair market value of the land at the date of application for the development approval for which the condition of dedication was imposed. The value of right-of-way is hereby established as **(\$20.00)** per SF, and all other necessary temporary slope, temporary construction, access easements, and utility easements shall be dedicated at no cost to the City.

10. OFF-SITE RIGHT-OF-WAY AND EASEMENT ACQUISITION.

- a. The Developer shall be responsible for obtaining all off-site right-of-way and easements associated with the off-site Improvements.
- b. At a minimum, the Developer shall offer fair market value for all right-of-way and or easements necessary as part of the Improvements. The value of right-of-way and easements shall be determined by a professional real estate appraiser or other means as approved by the City Engineer.
- c. Should negotiations fail, the City agrees to assist, to the maximum extent allowable by law, in the acquisition of the necessary off-site right-of-way and easements associated with the Improvements.

11. Reimbursement and Final Acceptance.

- a. The Developer may submit periodic invoices to the City during the course of design, right-of-way acquisition, easement acquisition, permitting and construction (not more frequently than every 90 days), which invoices shall be payable within 30 days after approval by the Road Impact Fee Administrator (City Engineer), subject to collected impact fees as specified within this Agreement.
- b. No reimbursement on Construction shall be allowed until all right-of-way and easements have been properly deeded to the City and/or State and recorded at the Williamson County Register of Deeds.
- c. Invoices shall include copies of approved contracts and invoices associated with the roadway Improvements, partial lien waivers for all contracts and copies of checks to show proof of payment. The Developer shall submit invoices based on the latest approved City forms as required by the Road Impact Fee Administrator (City Engineer).

- d. Prior to final reimbursement and City acceptance of off-site Improvements, the Developer shall coordinate final inspections with the City and obtain letters of acceptance from the Street Department or City Engineer.
- e. The following costs are specifically excluded from reimbursement: fiscal cost, including interest of money borrowed to finance the construction, cost for utility relocations, landscaping, turn lanes, internal management fees and turn lanes / signal improvements that benefit solely the development and not the arterial and/or collector roadway.

12. INDEMNIFICATION.

- a. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Developer under this Agreement or otherwise, Developer shall indemnify and hold harmless the City, and the officers, directors, members, partners, employees, agents, consultants and subcontractors, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Improvements, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the improvements itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Developer, and any contractor and any subcontractor, and any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Improvements, or anyone for whose acts any of them may be liable.
- b. In any and all claims against City, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Developer, and contractor, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Improvements, or anyone for whose acts any of them may be liable, the indemnification obligation under the paragraph above will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Developer, or any contractor or any such subcontractor, supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

13. MISCELLANEOUS.

- a. Binding. This Agreement shall be binding upon the parties and shall take effect from and after its ratification and signing by all parties after obtaining appropriate approval pursuant to the requirements of applicable law.
- b. Severability. The parties agree that if any part, term, or provision of this Agreement is determined to be illegal or in conflict with any law of the State of Tennessee by any court with jurisdiction, the validity of the remaining portions or provisions shall not be affected. The rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.
- c. Specific Performance. The parties recognize that the rights afforded to each under this Agreement are unique and, accordingly, the individual parties shall, in addition to such other remedies as may be available to them in equity, have the right to enforce their respective rights hereunder by an action for injunctive relief and/or specific performance to the extent permitted by law.

- d. Cooperation. The parties agree to cooperate fully in order to successfully execute the terms and conditions of this Agreement, including obtaining all regulatory and governmental approvals required to carry out the terms of this Agreement, recognizing that the intent of each party to the other is to serve the individual interests of each party while respecting the conditions and obligations of this Agreement.
- e. Assignment. The rights and obligations of this Agreement are not assignable without prior written consent of the City.
- f. Law/Venue. This Agreement shall be exclusively governed by the laws of the State of Tennessee. In the event that any section and/or term of this Agreement, or any exhibits hereto, becomes subject to litigation, the venue for such action will be exclusively maintained in a court of competent jurisdiction sitting in Williamson County, Tennessee.
- g. Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral, with respect to the subject matter hereof. This Agreement may be amended only by written instrument signed by all parties.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by an authorized person effective as of the date and year written below.

Approved by the Franklin Board of Mayor and Aldermen on _____, 20__.

WITNESS our hands on the dates as indicated.

DEVELOPER

By: _____

Print Name: _____

Title: _____

STATE OF TENNESSEE)

)

COUNTY OF _____)

Before me, _____ a Notary Public of said County and State, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged _____ self to be _____ (or other officer authorized to execute the instrument) of _____, the within named bargainer, a _____, and that _____ as such _____ executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal on this _____ day of _____, 20__.

Notary Public

My Commission Expires: _____

CITY

CITY OF FRANKLIN, TENNESSEE, a municipality

By: _____

DR. KEN MOORE

Mayor

Date: _____

By: _____

ERIC S. STUCKEY

City Administrator

Date: _____

STATE OF TENNESSEE)

)

COUNTY OF WILLIAMSON)

Before me, the undersigned Notary Public of said County and State, personally appeared **DR. KEN MOORE and ERIC S. STUCKEY**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to be the Mayor and City Administrator, respectively, of the City of Franklin, Tennessee, the within named bargainor, a municipality, and that as such Mayor and City Administrator executed the foregoing instrument for the purposes therein contained, by signing the name of the municipality by themselves as Mayor and City Administrator.

Witness my hand and seal this ____ day of _____, 20____.

Notary Public

My Commission Expires: _____

Approved as to form by:

Maricruz R. Fincher, Staff Attorney



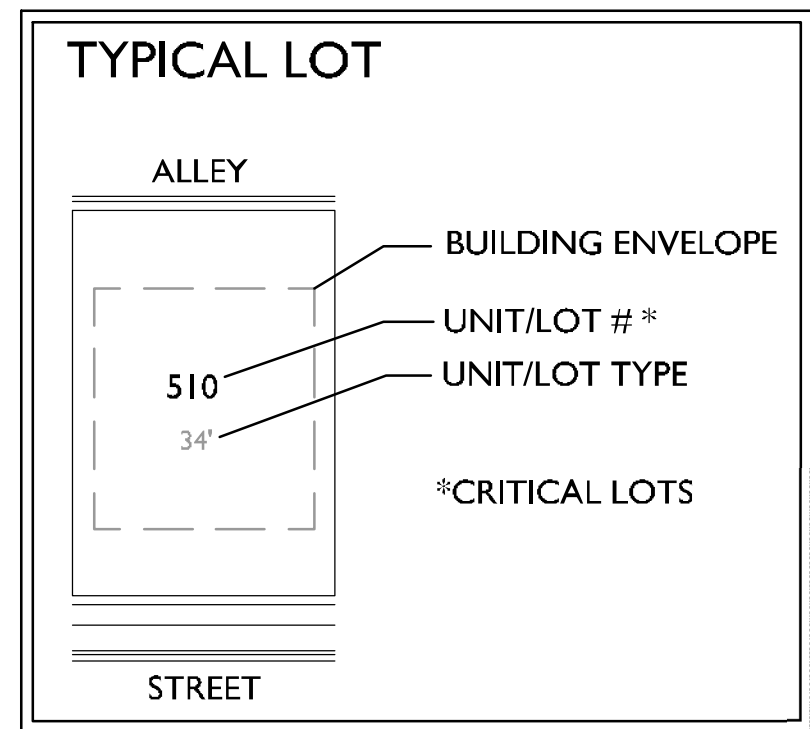
NEW TRAFFIC SIGNAL AT LEWISBURG PIKE AND STREAM VALLEY BLVD



Revision	Date
△	
△	
△	
△	

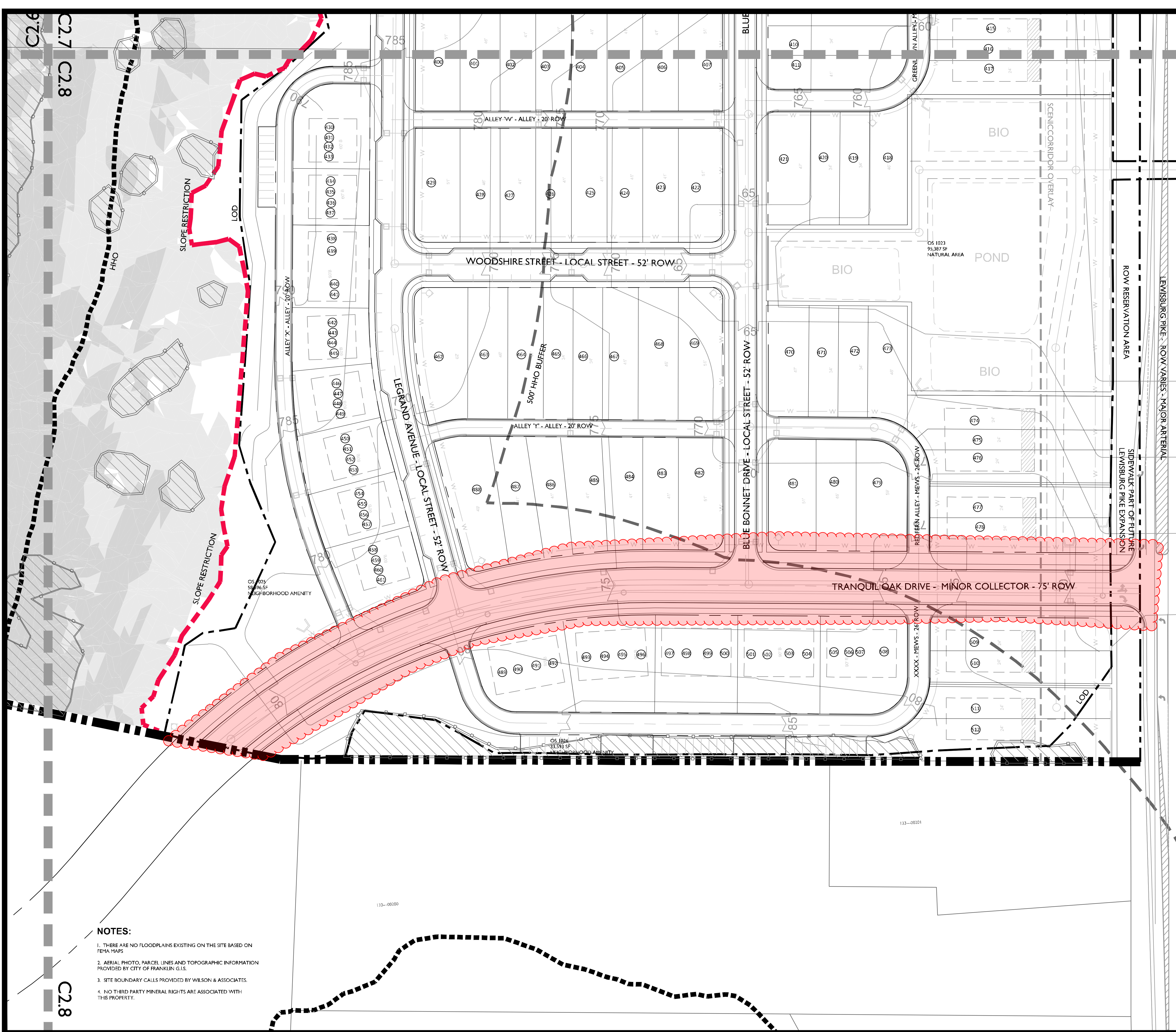
NOTES:
'SLOPE RESTRICTION' AREA REFERS TO AREAS WITHIN THE HHO BUFFER THAT HAVE NATURALLY OCCURRING SLOPES GREATER THAN 14%. THESE AREAS WILL NOT BE DISTURBED. SLOPES GREATER THAN 14% THAT ARE LOCATED OUTSIDE OF THE 'SLOPE RESTRICTION' AREAS HAVE BEEN DETERMINED TO BE MAN-MADE OR INSIGNIFICANT, THEREFORE ALLOWING DEVELOPMENT TO OCCUR.

*CRITICAL LOTS TO BE EVALUATED AT SITE PLAN TO ENSURE PLACEMENT OUTSIDE OF 'SLOPE RESTRICTION' AREA. IF, AT SITE PLAN, PLACEMENT OUTSIDE OF 'SLOPE RESTRICTION' AREA CANNOT BE ACHIEVED, UNITS & LOTS WILL BE REMOVED



KEY

	SLOPES 20%+
	SLOPES 14%-20%
	PRESERVED TREE CANOPY
	HHO
	500' HHO BUFFER
	SLOPE RESTRICTION
	LIMITS OF DISTURBANCE
	SITE BOUNDARY



NOTES:

1. THERE ARE NO FLOODPLAINS EXISTING ON THE SITE BASED ON FEMA MAPS
2. AERIAL PHOTO, PARCEL LINES AND TOPOGRAPHIC INFORMATION PROVIDED BY CITY OF FRANKLIN G.I.S.
3. SITE BOUNDARY CALLS PROVIDED BY WILSON & ASSOCIATES.
4. NO THIRD PARTY MINERAL RIGHTS ARE ASSOCIATED WITH THIS PROPERTY.



File #: 21-02093

DATE: May 28, 2021
TO: Board of Mayor and Aldermen
FROM: Eric Stuckey, City Administrator
Maricruz Fincher, Staff Attorney

SUBJECT:

Consideration Of Resolution 2021-103, A Resolution To Appoint Jessica Davey As Clerk Of The City Court Of Franklin, Tennessee, And To Vest Her With All Powers Provided To The Clerk By The Franklin City Charter And The Franklin City Code.

PURPOSE:

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning Resolution 2021-103, A Resolution to Appoint Jessica Davey as Clerk of the City Court of Franklin, Tennessee.

BACKGROUND/STAFF COMMENTS:

Article X, Section 4 of the Franklin City Charter, and Section 3-206 of the Franklin Municipal Code provide that the City Judge has the authority to appoint a Clerk of the City Court, who has the authority to perform certain duties. In October 2014, Judge Deana Hood was appointed by the BOMA to serve as City Judge. Since J. Lawrence Sullivan's retirement in December 2020, Jessica Davey has assisted Judge Hood and fulfilled the duties of City Court Clerk. Therefore, pursuant to the Charter and the Municipal Code, Judge Hood desires to appoint Mrs. Davey as Clerk of the City Court, and requests that the BOMA approve this appointment.

FINANCIAL IMPACT:

There is no fiscal impact associated with this Resolution.

RECOMMENDATION:

Staff recommends that the Board of Mayor and Aldermen approve Resolution 2021-103.

RESOLUTION 2021-103

RESOLUTION TO APPOINT JESSICA DAVEY AS CLERK OF THE CITY COURT OF FRANKLIN, TENNESSEE, AND TO VEST HER WITH ALL POWERS PROVIDED TO THE CLERK BY THE FRANKLIN CITY CHARTER AND THE FRANKLIN CITY CODE

WHEREAS, pursuant to Article X, Section 4 of the Franklin City Charter, and Section 3-206 of the Franklin Municipal Code, the City Judge has the authority to appoint a Clerk of the City Court, who has the authority to perform certain duties, including the issuance of arrest warrants upon the finding of probable cause; and

WHEREAS, Section 3-206 of the Franklin Municipal Code further provides that such person shall be approved by the Board of Mayor and Aldermen; and

WHEREAS, the Honorable Deana Hood, City Judge, has appointed Jessica Davey to be Clerk of the City Court, vested with all powers under applicable State laws, City Charter, and City Code; and

WHEREAS, the City Judge has requested that the Board of Mayor and Aldermen approve the appointment of Jessica Davey as Clerk of the City Court.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, AS FOLLOWS:

1. That the appointment of Jessica Davey as Clerk of the City Court of the City of Franklin, Tennessee, shall be, and is hereby, ratified as required by Section 3-206 of the Franklin Municipal Code.
2. That Jessica Davey, Clerk of the City Court, shall have all the powers vested to the Clerk by virtue of the laws of the State of Tennessee, the Franklin Municipal Charter, and/or the Franklin Municipal Code.
3. That this Resolution shall take effect immediately upon its passage; the health, welfare, and safety of the residents of the City of Franklin, Tennessee requiring it.

Duly passed by the Board of Mayor and Aldermen on the _____ day of June, 2021.

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
Eric S. Stuckey
City Administrator

By: _____
Dr. Ken Moore
Mayor

Approved as to Form:

By: _____
Maricruz R. Fincher
Staff Attorney



File #: 21-01868

DATE: May 11, 2021

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Michelle Hatcher, Director of Water Management
Brian Goodwin, Asst. Director of Water Management

SUBJECT:

Consideration Of Procurement Award To Haren Construction Company, Inc. Of Etowah, Tennessee In The Total Estimated Amount Of \$3,882,000 For Construction Of (1) A Southeast Basin Pilot Treatment Facility For The Water Management Department Sewer Impact Division And (2) A Reclaimed Water Booster Pump Station at the Redwing Meadows Subdivision For The Water Management Department Reclaimed General Division (Purchasing Office Procurement Solicitation No. 2021-010; Funds To Be Budgeted In 432-89230-52241 And 441-89230-52329, Respectively, For Fiscal Year 2022; Contract No. 2021-0069).

PURPOSE:

The purpose of this procurement is to construct (1) a southeast basin pilot treatment facility for the Water Management Department Sewer Impact Division and (2) a reclaimed water booster pump station at the Redwing Meadows subdivision for the Water Management Department Reclaimed General Division. The purpose of the pilot treatment facility is to aid in identifying the beneficial reuse options for a new clean water facility. The purpose of the reclaimed water booster pump station is to increase quantity of flow and pressure in the southeast portion of Franklin.

BACKGROUND/STAFF COMMENTS:

The City published on April 1, 2021 a Notice to Bidders in the *Williamson Herald* for Franklin Southeast Basin Pilot (Treatment Facility) and Red Wing Reclaimed (Water) Pump Station. In addition, bid documents were sent on or about the same date directly to six potential bidders known or thought to be interested in this solicitation. Four prime contractors attended the mandatory pre-bid conference. Bids from three prime contractors were publicly opened at the bid opening held on May 13, 2021. Both a tabulation of the bids received in response to this solicitation and a tabulation of bid line-item pricing are attached.

FINANCIAL IMPACT:

The responsible bidder that submitted the lowest priced responsive bid, Haren Construction Company, Inc. of Etowah, Tennessee, is in the total estimated amount of \$3,882,000 for construction of the specified project. This bid was identified because it is the lowest bid that also meets or exceeds the City's intention as expressed and implied by the City's specifications as well as the

instructions, terms and conditions pertaining to this procurement solicitation. The Water Management Department budget for fiscal year 2022 is to include funds sufficient for construction of the specified project.

RECOMMENDATION:

Staff recommends that the City accept, contingent upon Law Department and City Administrator approval of City Contract No. 2021-0069, the apparent lowest best bid, from Haren Construction Company, Inc. of Etowah, Tennessee, in the total estimated amount of \$3,882,000 for construction of the specified project, and award this procurement to this bidder. The City's Purchasing Manager believes the prepared solicitation documents as distributed allowed for competition among multiple contractors, and that the staff recommendation appears to be made in a fair and impartial manner based upon the bids received. Pursuant to authority previously granted by the Board of Mayor and Aldermen, Contract No. 2021-0069 has been prepared for execution by the City Administrator pending approval by the Board of Mayor and Aldermen of the staff recommendation to accept the bid from and award the procurement to Haren Construction Company, Inc.

ADVERTISEMENT FOR BIDS

City of Franklin
Franklin, Tennessee

General Notice

City of Franklin (Owner) is requesting Bids for the construction of the following Project:

Franklin Southeast Basin Pilot

Sealed and endorsed Bids for the construction of the Project will be received at the City of Franklin Purchasing Department located at Third Avenue South, Suite 107, Franklin, Tennessee 37064, until **[day], [date]** at **[time for receipt of Bids]** local time. At that time the Bids received will be publicly opened and read.

The Project includes the following Work:

- Site clearing, grading, and utility installation to serve pilot building.
- Modifications to existing wet well B to incorporate grinder pumping system, debris collection system, piping, valves, and appurtenances.
- Construction of pilot building for installation and operation of pilot skids, tanks, auxiliary equipment, piping, valves, and appurtenances for evaluation treatment performance to meet advanced treatment levels prior to discharge.
- Installation, start-up and commissioning of Owner furnished pilot equipment consisting of five skid mounted systems, tanks, pump skids, chemical systems, piping, valves, and appurtenances. Successful Bidder shall coordinate with Owner regarding pilot delivery schedule, training requirements, and start-up/commissioning services in accordance with the Owner's agreement with pilot equipment Suppliers.
- Building services including electrical, instrumentation and control, potable water, sewer, HVAC, and plumbing for the pilot building.

Bids are requested for the following single prime Contract. Owner anticipates that the Project's total bid price will be approximately \$**[insert amount]**. The Project has an expected duration of 210 calendar days to substantial completion after the date when the Contract Times commence to run and 240 calendar days to readiness for final payment after the date with the Contract Times commence to run.

Obtaining the Bidding Documents

The Issuing Office for the Bidding Documents is:

City of Franklin Purchasing Department
109 Third Avenue South, Franklin, Tennessee 37064
(615) 550-6692

Bidding Documents may be obtained from the Business Opportunities page of the City of Franklin website (<https://www.franklintn.gov>) digitally at no charge. Paper copies of the Bidding Documents will not be provided.

Owner will not be responsible for full or partial sets of Bidding Documents, including Addenda, if any, obtained from sources other than those posted on the Business Opportunities Page of the City of Franklin website.

EJCDC® C-111, Advertisement for Bids for Construction Contract.

This document is a MODIFIED version of EJCDC® C-111, Copyright© 2018 by the National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers, or is based in part on excerpts from copyrighted EJCDC documents. All rights reserved. Those portions of the text that originated in copyrighted EJCDC documents remain subject to the copyright.

In conjunction with C200 "Instruction to Bidders", Article 14 section 14.01 the following applies:

1. Set of original bid documents to be easily scanned in monochrome (gray-scale): The set of bid documents on paper with original signatures shall:
 - a. be loose-leaf or, if necessary, bound only by means of one or more paper clips or binder clips;
 - b. have no hole-punches;
 - c. include no staples;
 - d. contain no tabs;
 - e. be printed using black or other dark ink on white or near-white 8.5-inch by 11-inch standard-weight office paper (except any pre-printed documentation which may use colored ink but which shall still be printed on white or near-white 8.5-inch by 11-inch standard-weight office paper); and
 - f. be single-sided throughout (except any pre-printed documentation which may be double-sided).
2. Communication with City during procurement phase: Any questions about either the content of or the procurement process pertaining to this procurement solicitation should be addressed as described herein. Until the procurement award has been made, bidders shall not communicate about either the content of or the procurement process pertaining to this procurement solicitation with any official, employee or other representative of the City except through the City's Purchasing Office. The City reserves the right to disqualify any bidder that initiates unauthorized communication with the City during the procurement phase.

Pre-bid Conference

A mandatory pre-bid conference for the Project will be held on **[day, date]** at **[time]** at City of Franklin, City Hall Board Room, and a Site visit after the pre-bid conference for all interested Bidders. Bids will not be accepted from Bidders that do not attend the mandatory pre-bid conference.

Instructions to Bidders.

Bidders will be required to submit a Bid Security in the amount of five percent (5%) of Bidder's maximum Bid price in accordance with the Instructions to Bidders. Upon Contract award, the Successful Bidder must provide performance and payment bonds in accordance with the General Conditions, as may be modified by the Supplementary Conditions, at time of delivery of the executed Agreement to the Owner.

Bidders must be licensed contractors as required by Tennessee Code Annotated (TCA) §62-6-103 and §62- 6-112. Bidders are required to provide evidence of compliance with TCA Title 62, Chapter 6 before any Bidder's Bid may be considered.

Pursuant to TCA §62-6-119, each contractor/ Bidder applying to bid for the prime contract and for any masonry contract where the total masonry portion of the construction project exceeds one hundred thousand dollars (\$100,000.00), materials and labor, electrical, plumbing, heating, ventilation, and air conditioning contracts, is required to place his/ her Bid in a sealed envelope showing the Bidder's name, contractor license number, license expiration date, and license classification, and for electrical, plumbing, heating, ventilation and air conditioning contracts and for each vertical closed loop

Franklin Southeast Basin Pilot
Bid No. _____

geothermal heating and cooling project, the company name, Tennessee Department of Environment and Conservation (TDEC) license number, classification, and the expiration date of same, on the outside of the envelope using the State Contractor Licensing Information Form (Section C-00300), except when the Bid is in an amount less than twenty-five thousand dollars (\$25,000.00). Only one (1) contractor in such classification may be listed. Prime contractor Bidders who are to perform the masonry portion of the construction project which exceeds one hundred thousand dollars (\$100,000.00), materials and labor, electrical, plumbing, heating, ventilation and air conditioning must be so designated upon the outside of the envelope. Bids not conforming to these legal requirements are void, shall not be opened or considered. Bids less than twenty-five thousand dollars (\$25,000.00) may contain only the name of the contractor on the outside of the envelope. Upon opening the envelope, if such Bid is in excess of twenty-five thousand dollars (\$25,000.00), the same shall be automatically disqualified and shall not be considered.

Per Tennessee Department of Commerce & Insurance Board for Licensing Contractors Rule 0 680-01-.24 (2), award of the subcontract to one not listed on the base bid envelope in violation of TCA §62-6-119 will be subject to review and disciplinary action by the Board.

Two sets of Bidding Documents, one original and one copy, shall be submitted. Each Bidder must include with the Bid completed and signed statement of Bidder's Qualifications, Contractor Safety Information and acknowledgement of Receipt of Contractor Safety Program.

This Advertisement is issued by:

Owner: City of Franklin

INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT

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EJCDC® C-200, Instructions to Bidders for Construction Contract.

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ARTICLE 1—DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. *Issuing Office*—The office from which the Bidding Documents are to be issued.
 - B. *Plan Holders* – Bidders who obtained a set of Bidding Documents from the Issuing Office.

ARTICLE 2—BIDDING DOCUMENTS

- 2.01 Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). See the Agreement for a list of the Contract Documents. It is Bidder's responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.
- 2.02 Bidding Documents are made available for the sole purpose of obtaining Bids for completion of the Project and permission to download or distribution of the Bidding Documents does not confer a license or grant permission or authorization for any other use. Authorization to download documents, or other distribution, includes the right for plan holders to print documents solely for their use, and the use of their prospective Subcontractors and Suppliers, provided the plan holder pays all costs associated with printing or reproduction. Printed documents may not be re-sold under any circumstances.
- 2.03 Bidder may obtain complete sets of Bidding Documents from the Issuing Office. Bidders may rely that sets of Bidding Documents obtained from the Issuing Office are complete, unless an omission is blatant. Addenda to the Bidding Documents may be issued by Owner. Before submitting its bid, it is the responsibility of each prospective bidder to determine whether any addenda to the Bidding Documents have in fact been issued by the City. To do so, please browse to the Business Opportunities webpage of the City's website (<https://www.franklintn.gov/>), or contact the City of Franklin Purchasing Office (purchasing@franklintn.gov: 615-550-6692). Other than by posting addenda on the City's website, the City does not anticipate notifying prospective bidders of the issuance of addenda.
- 2.04 *Electronic Documents*
- A. When the Bidding Requirements indicate that electronic (digital) copies of the Bidding Documents are available, such documents will be made available to the Bidders as Electronic Documents in the manner specified.
 - 1. Bidding Documents will be provided in Adobe PDF (Portable Document Format) (.pdf) that is readable by Adobe Acrobat Reader Version **[insert version number]** or later. It is the intent of the Engineer and Owner that such Electronic Documents are to be exactly representative of the paper copies of the documents. However, because the Owner and Engineer cannot totally control the transmission and receipt of Electronic Documents nor the Contractor's means of reproduction of such documents, the Owner and Engineer cannot and do not guarantee that Electronic Documents and reproductions prepared from those versions are identical in every manner to the paper copies.

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- B. Unless otherwise stated in the Bidding Documents, the Bidder may use and rely upon complete sets of Electronic Documents of the Bidding Documents, described in Paragraph 2.04.A above. However, Bidder assumes all risks associated with differences arising from transmission/receipt of Electronic Documents versions of Bidding Documents and reproductions prepared from those versions and, further, assumes all risks, costs, and responsibility associated with use of the Electronic Documents versions to derive information that is not explicitly contained in printed paper versions of the documents, and for Bidder's reliance upon such derived information.

ARTICLE 3—QUALIFICATIONS OF BIDDERS

- 3.01 To demonstrate Bidder's qualifications to perform the Work, after submitting its Bid and within seven (7) days of Owner's request, Bidder must submit the following information:
 - A. Additional written evidence establishing its qualifications such as financial data and previous experience.
 - B. Bidder's registration as a vendor with the City of Franklin.
 - C. Bidder's valid City of Franklin and Williamson County, Tennessee business licenses.
 - D. Other required information regarding qualifications.
- 3.02 Bidders must submit the following information with Bid to demonstrate Bidder's qualifications to perform the Work:
 - A. A written statement that Bidder is authorized to do business in the state where the Project is located.
 - B. Bidder's and Subcontractor(s)' state or other contractor license number, if applicable.
 - C. Subcontractor and Supplier qualification information.
 - D. Other required information regarding qualifications.

- 3.03 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.04 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.
- 3.05 All information provided by Bidder is subject to the Tennessee Open Records laws.
- 3.06 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder's representations and certifications.
- 3.07 Bidders must be licensed contractors as required by Tennessee Code Annotated (TCA) §62-6-103 and §62-6-112. Bidders are required to provide evidence of compliance with TCA Title 62, Chapter 6 before any Bidder's Bid may be considered.

ARTICLE 4—PRE-BID CONFERENCE

- 4.01 A pre-bid conference will be conducted for this Project, as set forth in the advertisement for Bid.
- 4.02 Information presented at the pre-Bid conference does not alter the Contract Documents. Owner will issue Addenda to make any changes to the Contract Documents that result from discussions at the pre-Bid conference. Information presented, and statements made at the pre-bid conference will not be binding or legally effective unless incorporated in an Addendum.

ARTICLE 5—SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE

5.01 *Site and Other Areas*

- A. The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any additional lands required for temporary construction facilities, construction equipment, or storage of materials and equipment, and any access needed for such additional lands, are to be obtained and paid for by Contractor.

5.02 *Existing Site Conditions*

A. *Subsurface and Physical Conditions; Hazardous Environmental Conditions*

- 1. The Supplementary Conditions identify the following regarding existing conditions at or adjacent to the Site:
 - a. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data.
 - b. Those drawings known to Owner of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data.
 - c. Reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.
 - d. Technical Data contained in such reports and drawings.

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2. Owner will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in the General Conditions, has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.
 3. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.
- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05 of the General Conditions, and not in the drawings referred to in Paragraph 5.02.A of these Instructions to Bidders. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

5.03 *Other Site-related Documents*

- A. In addition to the documents regarding existing Site conditions referred to in Paragraph 5.02.A, the following other documents relating to conditions at or adjacent to the Site are known to Owner and made available to Bidders for reference:
1. **None**
- Owner will make electronic copies of these other Site-related documents available to any Bidder on request.
- B. Owner has not verified the contents of these other Site-related documents, and Bidder may not rely on the accuracy of any data or information in such documents. Bidder is responsible for any interpretation or conclusion Bidder draws from the other Site-related documents.
- C. The other Site-related documents are not part of the Contract Documents.
- D. Bidders are encouraged to review the other Site-related documents, but Bidders will not be held accountable for any data or information in such documents. The requirement to review and take responsibility for documentary Site information is limited to information in (1) the Contract Documents and (2) the Technical Data.
- E. No other Site-related documents are available.

5.04 *Site Visit and Testing by Bidders*

- A. Bidder is required to visit the Site and conduct a thorough visual examination of the Site and adjacent areas. During the visit the Bidder must not disturb any ongoing operations at the Site.
- B. A Site visit is scheduled following the pre-bid conference.
- C. Bidders visiting the Site are required to arrange their own transportation to the Site.
- D. Bidder is not required to conduct any subsurface testing, or exhaustive investigations of Site conditions.

- E. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder general access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner's authority regarding the Site. Bidder is responsible for establishing access needed to reach specific selected test sites.
- F. Bidder must comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.
- G. Bidder must fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

5.05 *Owner's Safety Program*

- A. Site visits and work at the Site may be governed by an Owner safety program.

5.06 *Other Work at the Site*

- A. Identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) is included in the Bidding Documents and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

ARTICLE 6—BIDDER'S REPRESENTATIONS AND CERTIFICATIONS

6.01 *Express Representations and Certifications in Bid Form, Agreement*

- A. The Bid Form that each Bidder will submit contains express representations regarding the Bidder's examination of Project documentation, Site visit, and preparation of the Bid, and certifications regarding lack of collusion or fraud in connection with the Bid. Bidder should review these representations and certifications and assure that Bidder can make the representations and certifications in good faith, before executing and submitting its Bid.
- B. If Bidder is awarded the Contract, Bidder (as Contractor) will make similar express representations and certifications when it executes the Agreement.

ARTICLE 7—INTERPRETATIONS AND ADDENDA

- 7.01 Owner on its own initiative may issue Addenda to clarify, correct, supplement, or change the Bidding Documents.
- 7.02 Bidder shall submit all questions about the meaning or intent of the Bidding Documents to Engineer in writing. Contact information and submittal procedures for such questions are as follows:
 - A. Email: purchasing@franklintn.gov
- 7.03 Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda. Questions received less than twelve (12) calendar days prior to the date for opening of Bids may not be answered.
- 7.04 Only responses set forth in an Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. Responses to questions are not part of the Contract Documents unless set forth in an Addendum that expressly modifies or supplements the Contract Documents.

ARTICLE 8—BID SECURITY

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of five percent (5%) of Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a Bid bond issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions. Such Bid bond will be issued in the form included in the Bidding Documents.
- 8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract, furnished the required Contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract and furnish the required Contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited, in whole in the case of a penal sum bid bond, and to the extent of Owner's damages in the case of a damages-form bond. Such forfeiture will be Owner's exclusive remedy if Bidder defaults.
- 8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 7 days after the Effective Date of the

Contract or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.

- 8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within 7 days after the Bid opening.

ARTICLE 9—CONTRACT TIMES

- 9.01 The number of days within which, or the dates by which, the Work is to be (a) substantially completed and (b) ready for final payment, and (c) Milestones (if any) are to be achieved, are set forth in the Agreement.
- 9.02 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement.

ARTICLE 10—SUBSTITUTE AND “OR EQUAL” ITEMS

- 10.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, and those “or-equal” or substitute or materials and equipment subsequently approved by Engineer prior to the submittal of Bids and identified by Addendum. No item of material or equipment will be considered by Engineer as an “or-equal” or substitute unless written request for approval has been submitted by Bidder and has been received by Engineer within 10 days of the issuance of the Advertisement for Bids or invitation to Bidders. Each such request must comply with the requirements of Paragraphs 7.05 and 7.06 of the General Conditions, and the review of the request will be governed by the principles in those paragraphs. The burden of proof of the merit of the proposed item is upon Bidder. Engineer’s decision of approval or disapproval of a proposed item will be final. If Engineer approves any such proposed item, such approval will be set forth in an Addendum issued to all registered Bidders. Bidders cannot rely upon approvals made in any other manner.
- 10.02 All prices that Bidder sets forth in its Bid will be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of “or-equal” or substitution requests are made at Bidder’s sole risk.

ARTICLE 11—SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 11.01 -A Bidder must be prepared to retain specific Subcontractors and Suppliers for the performance of the Work if required to do so by the Bidding Documents or in the Specifications. If a prospective Bidder objects to retaining any such Subcontractor or Supplier and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.
- 11.02 Bidder must submit to Owner with its Bid a list of the Subcontractors and Suppliers proposed for the Work.
- 11.03 If requested by Owner, such list must be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor or Supplier. If Owner or Engineer, after due investigation, has reasonable objection

to any proposed Subcontractor or Supplier, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder will submit a substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.

- 11.04 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors and Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in Paragraph 7.07 of the General Conditions.
- 11.05 Pursuant to TCA §62-6-119, each contractor / bidder applying to bid for the prime contract and for any masonry contract where the total masonry portion of the construction project exceeds one hundred thousand dollars (\$100,000.00), materials and labor, electrical, plumbing, heating, ventilation, and air conditioning contracts, is required to place his / her bid in a sealed envelope showing the bidder's name, contractor license number, license expiration date, and license classification, and for electrical, plumbing, heating, ventilation and air conditioning contracts and for each vertical closed loop geothermal heating and cooling project, the company name, Tennessee Department of Environment and Conservation (TDEC) license number, classification, and the expiration date of same, on the outside of the envelope using the State Contractor Licensing Information Form (Section 00300), except when the bid is in an amount less than twenty-five thousand dollars (\$25,000.00). Only one (1) contractor in such classification may be listed. Prime contractor bidders who are to perform the masonry portion of the construction project which exceeds one hundred thousand dollars (\$100,000.00), materials and labor, the electrical, plumbing, heating, ventilation and air conditioning must be so designated upon the outside of the envelope. Bids not conforming to these legal requirements are void, shall not be opened or considered. Bids less than twenty-five thousand dollars (\$25,000.00) may contain only the name of the contractor on the outside of the envelope. Upon opening the envelope, if such bid is in excess of twenty-five thousand dollars (\$25,000.00), the same shall be automatically disqualified and shall not be considered.
- 11.06 Per Tennessee Department of Commerce & Insurance Board for Licensing Contractors Rule 0680- 01-.24 (2), award of the subcontract to one not listed on the base bid envelope in violation of TCA §62-6-119 will be subject to review and disciplinary action by the Board.

ARTICLE 12—PREPARATION OF BID

- 12.01 The Bid Form is included with the Bidding Documents.
- A. All blanks on the Bid Form must be completed in ink and the Bid Form signed in ink. Erasures or alterations must be initialed in ink by the person signing the Bid Form. A Bid price must be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.

- B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words “No Bid” or “Not Applicable.”
- 12.02 If Bidder has obtained the Bidding Documents as Electronic Documents, then Bidder shall prepare its Bid on a paper copy of the Bid Form printed from the Electronic Documents version of the Bidding Documents. The printed copy of the Bid Form must be clearly legible, printed on 8½ inch by 11-inch paper and as closely identical in appearance to the Electronic Document version of the Bid Form as may be practical. The Owner reserves the right to accept Bid Forms which nominally vary in appearance from the original paper version of the Bid Form, providing that all required information and submittals are included with the Bid.
- 12.03 A Bid by a corporation must be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown.
- 12.04 A Bid by a partnership must be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown.
- 12.05 A Bid by a limited liability company must be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown.
- 12.06 A Bid by an individual must show the Bidder’s name and official address.
- 12.07 A Bid by a joint venture must be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must be shown.
- 12.08 All names must be printed in ink below the signatures.
- 12.09 The Bid must contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.
- 12.10 Postal and e-mail addresses and telephone number for communications regarding the Bid must be shown.
- 12.11 The Bid must contain evidence of Bidder’s authority to do business in the state where the Project is located.
- 12.12 If Bidder is required to be licensed to submit a Bid or perform the Work in the state where the Project is located, the Bid must contain evidence of Bidder’s licensure, or Bidder must certify in writing that it will obtain such licensure within the time for acceptance of Bids and attach such certification to the Bid. Bidder’s state contractor license number, if any, must also be shown on the Bid Form.

ARTICLE 13—BASIS OF BID

13.01 *Lump Sum*

- A. Bidders must submit a Bid on a lump sum basis as set forth in the Bid Form.

13.02 Unit Price

- A. Bidders must submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.
- B. The “Bid Price” (sometimes referred to as the extended price) for each unit price Bid item will be the product of the “Estimated Quantity”, which Owner or its representative has set forth in the Bid Form, for the item and the corresponding “Bid Unit Price” offered by the Bidder. The total of all unit price Bid items will be the sum of these “Bid Prices”; such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

13.03 Allowances

- A. For cash allowances the Bid price must include such amounts as the Bidder deems proper for Contractor's overhead, costs, profit, and other expenses on account of cash allowances, if any, named in the Contract Documents, in accordance with Paragraph 13.02.B of the General Conditions.

ARTICLE 14—SUBMITTAL OF BID

- 14.01 The Bidding Documents include one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 2 of the Bid Form. Two sets of Bidding Documents, one original and one copy, shall be submitted. See C111 for more specifics for the Bid submittal.
- 14.02 A Bid must be received no later than the date and time prescribed and at the place indicated in the Advertisement or invitation to bid and must be enclosed in a plainly marked package with the Project title, completed State Contractor License Information Form attached to the outside of the envelope, and must be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid must be enclosed in a separate package plainly marked on the outside with the notation “BID ENCLOSED.” A mailed Bid must be addressed to the location designated in the Advertisement.
- 14.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

ARTICLE 15—MODIFICATION AND WITHDRAWAL OF BID

- 15.01 An unopened Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder. Person requesting such action must be an authorized

representative of the withdrawing Bidder's company and must present proof of same to Purchasing personnel.

- 15.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 15.01 and submit a new Bid prior to the date and time for the opening of Bids.
- 15.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, the Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, the Bidder will be disqualified from further bidding on the Work.

ARTICLE 16—OPENING OF BIDS

- 16.01 Bids will be opened at the time and place indicated in the advertisement or invitation to bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

ARTICLE 17—BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 17.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

ARTICLE 18—EVALUATION OF BIDS AND AWARD OF CONTRACT

- 18.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive all minor Bid informalities not involving price, time, or changes in the Work.
- 18.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible. The Owner also reserves the right not to award the contract to any Bidder that is in arrears to the Owner on a debt or a contract or is a defaulter on surety to the Owner. In addition, Owner reserves the right to reject the Bid of any Bidder, who has previously failed to perform properly or complete projects of similar nature in accordance with the project schedule.
- 18.03 If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, whether in the Bid itself or in a separate communication to Owner or Engineer, then Owner will reject the Bid as nonresponsive.
- 18.04 If Owner awards the contract for the Work, such award will be to the responsible Bidder submitting the lowest responsive Bid.
- 18.05 *Evaluation of Bids*
- A. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.

EJCDC® C-200, Instructions to Bidders for Construction Contract.

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- 18.06 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.
- 18.07 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.

ARTICLE 19—BONDS AND INSURANCE

- 19.01 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds, other required bonds (if any), and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by required bonds and insurance documentation.
- 19.02 Article 8, Bid Security, of these Instructions, addresses any requirements for providing bid bonds as part of the bidding process.

ARTICLE 20—SIGNING OF AGREEMENT

- 20.01 When Owner issues a Notice of Award to the Successful Bidder, it will be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder must execute and deliver the required number of counterparts of the Agreement and any bonds and insurance documentation required to be delivered by the Contract Documents to Owner. Within 30 days thereafter, Owner will deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed copies of the Contract Documents and one copy in electronic portable document format (PDF), if requested by Contractor, as stated in Paragraph 2.02 of the General Conditions.

ARTICLE 21—SALES AND USE TAXES

- 21.01 Owner is exempt from Tennessee state sales and use taxes on certain materials and equipment to be incorporated in the Work. Said taxes must not be included in the Bid.

ARTICLE 22—CIVIL RIGHTS

- 22.01 In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements that the Federal Transit Administration (FTA), Federal Highway Administration (FHWA) and/or Department of Transportation (DOT) may issue.

ARTICLE 23—ILLEGAL ALIENS

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- 24.01 Per City of Franklin Code of Ordinances Section 6-105, if any person who contracts to supply goods or services to the city or other city entities, or who submits a bid to contract to supply goods or services to the city or other city entities, is discovered to have knowingly utilized the services of illegal aliens in the performance of such a contract to supply goods or services to the city or other city entities, the purchasing agents shall declare that person to be prohibited from contracting for or submitting a bid for any contract to supply goods or services to the city or other city entities for a period of one (1) year from the date of discovery of the usage of illegal alien services in the performance of a contract to supply goods or services to the city or other city entities.

ARTICLE 24—BUSINESS LICENSE

- 25.01 The Contractor and, if applicable, its subcontractor(s) shall have a license to do business with the City of Franklin in accordance with TCA §67-4-701, et sequentia. Questions regarding business licenses may be directed to the Tennessee Department of Revenue (phone number (800) 342-1003).

SECTION C-300

STATE CONTRACTOR LICENSE INFORMATION FORM

Complete applicable portions of this form and attach to the outside of envelope containing the Bid

Bidder/Prime Contractor Name: _____

Street Address: _____

City, State, Zip: _____

If bid amount is \$25,000 or greater, Bidder shall complete Tennessee Contractor License Information:

License No.: _____ Expiration Date: _____

License Classification: _____ License Limit: _____

Electrical Contractor

(should subcontract portion be \$25,000 or greater, Tennessee Contractor License Information shall also be provided)

Name: _____

License No.: _____

License Classification: _____

License Expiration Date: _____

License Limit: _____

Plumbing Contractor

(should subcontract portion be \$25,000 or greater, Tennessee Contractor License Information shall also be provided)

Name: _____

License No.: _____

License Classification: _____

License Expiration Date: _____

License Limit: _____

Heating, Ventilation and Air Conditioning (HVAC) Contractor

(should subcontract portion be \$25,000 or greater, Tennessee Contractor License Information shall also be provided)

Name: _____

License No.: _____

License Classification: _____

License Expiration Date: _____

License Limit: _____

Vertical Closed Loop Geothermal Heating and Cooling Contractor

(should subcontract portion be \$25,000 or greater, Tennessee Contractor License Information shall also be provided)

Name: _____

License No.: _____

License Classification: _____

License Expiration Date: _____

License Limit: _____

Roofing Contractor

(should subcontract portion be \$25,000 or greater, Tennessee Contractor License Information shall also be provided)

Name: _____

License No.: _____

License Classification: _____

License Expiration Date: _____

License Limit: _____

Masonry Contractor

(should subcontract portion be \$100,000 or greater, Tennessee Contractor License Information shall also be provided)

Name: _____

License No.: _____

License Classification: _____

License Expiration Date: _____

License Limit: _____

Per Tennessee Department of Commerce & Insurance Board for Licensing Contractors Rule 0680-01-.24 (2): Award of the subcontract to one not listed on the base bid envelope in violation of T.C.A. §62-6-119 will be subject to review and disciplinary action by the Board.

Contractor's Authorized Agent: _____

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C430 - BID BOND (PENAL SUM FORM)

Bidder Name: Address <i>(principal place of business)</i> :	Surety Name: Address <i>(principal place of business)</i> :
Owner Name: City of Franklin Address <i>(principal place of business)</i> : 103 Third Avenue South Franklin, TN 37064	Bid Project <i>(name and location)</i> : Franklin Southeast Basin Pilot Franklin, Tennessee 37064 Bid Due Date: [Enter date bid is due]
Bond Penal Sum: Date of Bond:	
Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.	
Bidder	Surety
_____ <i>(Full formal name of Bidder)</i>	_____ <i>(Full formal name of Surety) (corporate seal)</i>
By: _____ <i>(Signature)</i>	By: _____ <i>(Signature) (Attach Power of Attorney)</i>
Name: _____ <i>(Printed or typed)</i>	Name: _____ <i>(Printed or typed)</i>
Title: _____	Title: _____
Attest: _____ <i>(Signature)</i>	Attest: _____ <i>(Signature)</i>
Name: _____ <i>(Printed or typed)</i>	Name: _____ <i>(Printed or typed)</i>
Title: _____	Title: _____
<i>Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.</i>	

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation will be null and void if:
 - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2. All Bids are rejected by Owner, or
 - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.

SECTION C-410

BID FORM FOR CONSTRUCTION CONTRACT

The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 1—OWNER AND BIDDER

1.01 This Bid is submitted to:

City of Franklin
Third Avenue South, Suite 107
Franklin, TN 37064

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2—ATTACHMENTS TO THIS BID

2.01 The following documents are submitted with and made a condition of this Bid:

- A. Required Bid security;
- B. List of Proposed Subcontractors;
- C. List of Proposed Suppliers;
- D. Evidence of authority to do business in the state of the Project;
- E. State Contractor License Information Form (C-300);
- F. Qualifications Statement (C-451) with supporting data;
- G. Contractor/Firm/Business Safety Information and Acknowledgement of Receipt of Contractor/Firm/Business Safety Program (C-452);
- H. Conflict of Interest Statement (C-453);
- I. Drug-Free Workplace Affidavit (C-454);
- J. Attestation Regarding Illegal Immigrants or Aliens (C-455); and
- K. Iran Divestment Act Certification (C-456).

ARTICLE 3—BASIS OF BID

3.01 *Lump Sum Bids*

- A. Bidder will complete the Work in accordance with the Contract Documents for the following lump sum (stipulated) price(s), together with any Unit Prices indicated in Paragraph 3.02:
 - 1. Lump Sum Price (Single Lump Sum)

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Lump Sum Bid Price Item No. 1: Mobilization, Insurance, and Bonds	\$
Lump Sum Bid Price Item No. 2: Site Preparation, Maintenance, and Restoration	\$
Lump Sum Bid Price Item No. 3: Project Closeout	\$
Lump Sum Bid Price Item No. 4: Redwing Reclaimed Water Pumping Station	\$
Lump Sum Bid Price Item No. 5: Pilot Building Construction	\$
Lump Sum Bid Price Item No. 6: Installation of Owner Furnished Equipment and Material	\$
Total for all Lump Sum Bid Items	\$

- B. All specified cash allowance(s) are included in the price(s) set forth below, and have been computed in accordance with Paragraph 13.02 of the General Conditions.

Lump Sum for Cash Allowance 1: Revere Control Systems	\$
Lump Sum for Cash Allowance 2: Materials Testing	\$
Total for all Lump Sum for Cash Allowances	\$

- C. All specified contingency allowances are included in the price(s) set forth below, and have been computed in accordance with Paragraph 13.02 of the General Conditions.

Lump Sum Contingency Allowance 1: Additional Work Where Directed by Owner Contingency	\$
Total for all Lump Sum Contingency Allowances	\$

3.02 Unit Price Bids

- A. Bidder will perform the following Work at the indicated unit prices:

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Amount
A	Undercut Excavation	cu. yd	500		\$
Total of All Unit Price Bid Items					\$

- B. Bidder acknowledges that:

- each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and
- estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Work will be based on actual quantities, determined as provided in the Contract Documents.

3.03 Total Bid Price

Total Bid Price (Total of all Lump Sum and Unit Price Bids)	\$
---	----

TOTAL BID PRICE, EQUAL TO TOTAL OF LUMP SUM AND UNIT PRICE BIDS, IN THE AMOUNT OF

(words)

(words) Dollars

ARTICLE 4—BASIS OF BID—COST-PLUS FEE (NOT USED)

ARTICLE 5—PRICE-PLUS-TIME BID (NOT USED)

ARTICLE 6—TIME OF COMPLETION

6.01 -Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7—BIDDER’S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA

7.01 *Bid Acceptance Period*

A. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

7.02 *Instructions to Bidders*

A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

7.03 *Receipt of Addenda*

A. Bidder hereby acknowledges receipt of the following Addenda:

Addendum Number	Addendum Date

ARTICLE 8—BIDDER’S REPRESENTATIONS AND CERTIFICATIONS

8.01 *Bidder’s Representations*

A. In submitting this Bid, Bidder represents the following:

1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.

2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the General Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as Contractor; and (c) Bidder's (Contractor's) safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
9. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

8.02 *Bidder's Certifications*

A. The Bidder certifies the following:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.

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2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
3. Bidder has not solicited or induced any individual or entity to refrain from bidding.
4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 8.02.A:
 - a. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process.
 - b. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.
 - c. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels.
 - d. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

BIDDER hereby submits this Bid as set forth above:

Bidder:

(typed or printed name of organization)

By:

(individual's signature)

Name:

(typed or printed)

Title:

(typed or printed)

Date:

(typed or printed)

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

Attest:

(individual's signature)

Name:

(typed or printed)

Title:

(typed or printed)

Date:

(typed or printed)

Address for giving notices:

Bidder's Contact:

Name:

(typed or printed)

Title:

(typed or printed)

Phone:

Email:

Address:

Bidder's Contractor License No.: (if applicable)

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SECTION C-451

QUALIFICATIONS STATEMENT

ARTICLE 1—GENERAL INFORMATION

1.01 Provide contact information for the Business:

Legal Name of Business:			
Corporate Office			
Name:		Phone number:	
Title:		Email address:	
Business address of corporate office:			
Local Office			
Name:		Phone number:	
Title:		Email address:	
Business address of local office:			

1.02 Provide information on the Business's organizational structure:

Form of Business:	☐ Sole Proprietorship ☐ Partnership ☐ Corporation		
☐ Limited Liability Company ☐ Joint Venture comprised of the following companies:			
1.			
2.			
3.			
Provide a separate Qualification Statement for each Joint Venturer.			
Date Business was formed:		State in which Business was formed:	
Is this Business authorized to operate in the Project location?		☐ Yes ☐ No ☐ Pending	

EJCDC C-451, Qualifications Statement.

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- 1.03 Identify all businesses that own Business in whole or in part (25% or greater), or that are wholly or partly (25% or greater) owned by Business:

Name of business:		Affiliation:	
Address:			
Name of business:		Affiliation:	
Address:			
Name of business:		Affiliation:	
Address:			

- 1.04 Provide information regarding the Business's officers, partners, and limits of authority.

Name:		Title:	
Authorized to sign contracts:	☐ Yes ☐ No	Limit of Authority:	\$
Name:		Title:	
Authorized to sign contracts:	☐ Yes ☐ No	Limit of Authority:	\$
Name:		Title:	
Authorized to sign contracts:	☐ Yes ☐ No	Limit of Authority:	\$
Name:		Title:	

ARTICLE 2—LICENSING

- 2.01 Provide information regarding licensure for Business:

Name of License:			
Licensing Agency:			
License No:		Expiration Date:	
Name of License:			
Licensing Agency:			
License No:		Expiration Date:	

ARTICLE 3—SURETY INFORMATION

- 3.01 Provide information regarding the surety company that will issue required bonds on behalf of the Business, including but not limited to performance and payment bonds.

Surety Name:			
Surety is a corporation organized and existing under the laws of the state of:			
Is surety authorized to provide surety bonds in the Project location?	☐ Yes ☐ No		

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Is surety listed in “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies” published in Department Circular 570 (as amended) by the Bureau of the Fiscal Service, U.S. Department of the Treasury? ☐ Yes ☐ No			
Mailing Address (principal place of business):			
Physical Address (principal place of business):			
Phone (main):		Phone (claims):	

ARTICLE 4—INSURANCE

- 4.01 Provide information regarding Business’s insurance company(s), including but not limited to its Commercial General Liability carrier. Provide information for each provider.

Name of insurance provider, and type of policy (CLE, auto, etc.):			
Insurance Provider		Type of Policy (Coverage Provided)	
Are providers licensed or authorized to issue policies in the Project location?		☐ Yes ☐ No	
Does provider have an A.M. Best Rating of A-VII or better?		☐ Yes ☐ No	
Mailing Address (principal place of business):			
Physical Address (principal place of business):			
Phone (main):		Phone (claims):	

ARTICLE 5—CONSTRUCTION EXPERIENCE

- 5.01 Provide information regarding the Business’s previous contracting experience.

Years of experience with projects like the proposed project:			
As a general contractor:		As a joint venturer:	
Has Business, or a predecessor in interest, or an affiliate identified in Paragraph 1.03:			

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Been disqualified as a bidder by any local, state, or federal agency within the last 5 years? ☐ Yes ☐ No
Been barred from contracting by any local, state, or federal agency within the last 5 years? ☐ Yes ☐ No
Been released from a bid in the past 5 years? ☐ Yes ☐ No
Defaulted on a project or failed to complete any contract awarded to it? ☐ Yes ☐ No
Refused to construct or refused to provide materials defined in the contract documents or in a change order? ☐ Yes ☐ No
Been a party to any currently pending litigation or arbitration? ☐ Yes ☐ No
Provide full details in a separate attachment if the response to any of these questions is Yes.

- 5.02 List all projects currently under contract in Schedule A and provide indicated information (copy form as needed). Include in the General Description the number of linear feet of CIPP liner to be installed.
- 5.03 List a minimum of three (3) projects completed in the last five (3) years in Schedule B and provide indicated information to demonstrate the Business' experience with projects similar in type and cost of construction (copy form as needed). Include in the General Description the number of linear feet of CIPP liner installed.
- 5.04 In Schedule C, provide information on key individuals whom Business intends to assign to the Project. Provide resumes for those individuals included in Schedule C. Key individuals include the Project Manager, On-Site Superintendent, Alternate On-Site Superintendent, Quality Control Manager, and Safety Manager. Resumes may be provided for Business' key leaders as well.

ARTICLE 6—REQUIRED ATTACHMENTS

- 6.01 Provide the following information with the Statement of Qualifications:
- A. If Business is a Joint Venture, separate Qualifications Statements for each Joint Venturer, as required in Paragraph 1.02.
 - B. Attachments providing additional information as required by Paragraph 5.01.
 - C. Schedule A (Current Projects) as required by Paragraph 5.02.
 - D. Schedule B (Previous Experience with Similar Projects) as required by Paragraph 5.03.
 - E. Schedule C (Key Individuals) and resumes for the key individuals listed, as required by Paragraph 5.04.
 - F. Number of linear feet of successful sewer line installations completed by the contractor during the last three (3) years.

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- G. Number of linear feet of successful CIPP liner installations completed by the designated full-time on-site superintendent and the alternate on-site superintendent during the last two (2) years.
- H. Additional items as pertinent.

This Statement of Qualifications is offered by:

Business:

(typed or printed name of organization)

By:

(individual's signature)

Name:

(typed or printed)

Title:

(typed or printed)

Date:

(date signed)

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

Attest:

(individual's signature)

Name:

(typed or printed)

Title:

(typed or printed)

Address for giving notices:

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

Phone:

Email:

Schedule A—Current Projects

Name of Organization					
Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	On-site Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					
Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	On-site Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					
Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	On-site Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					

Schedule B—Previous Experience with Similar Projects

Name of Organization					
Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	On-site Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					
Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	On-site Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					
Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	On-site Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					

Schedule B—Previous Experience with Similar Projects

Name of Organization					
Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	On-site Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					
Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	On-site Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					
Project Owner			Project Name		
General Description of Project					
Project Cost			Date Project		
Key Project Personnel	Project Manager	On-site Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner					
Designer					
Construction Manager					

Schedule C—Key Individuals

Project Manager			
Name of individual			
Years of experience as project manager			
Years of experience with this organization			
Number of similar projects as project manager			
Number of similar projects in other positions			
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
Reference Contact Information (listing names indicates approval to contact named individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	
On-site Superintendent			
Name of individual			
Years of experience as on-site superintendent			
Years of experience with this organization			
Number of similar projects as on-site superintendent			
Number of similar projects in other positions			
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
Reference Contact Information (listing names indicates approval to contact individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	

Alternate On-site Superintendent			
Name of individual			
Years of experience as on-site superintendent			
Years of experience with this organization			
Number of similar projects as on-site superintendent			
Number of similar projects in other positions			
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
Reference Contact Information (listing names indicates approval to contact named individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	
Safety Manager			
Name of individual			
Years of experience as safety manager			
Years of experience with this organization			
Number of similar projects as safety manager			
Number of similar projects in other positions			
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
Reference Contact Information (listing names indicates approval to contact named individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	

Quality Control Manager			
Name of individual			
Years of experience as quality control manager			
Years of experience with this organization			
Number of similar projects as quality control manager			
Number of similar projects in other positions			
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
Reference Contact Information (listing names indicates approval to contact named individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	

SECTION C-452

CONTRACTOR/FIRM/BUSINESS SAFETY PROGRAM

1. PURPOSE

This program is designed to set safety and health expectations and establish a screening process so that The City of Franklin may hire and use Contractors/Firms/Businesses who accomplish the desired job tasks without compromising the safety and health of employees. The Contractor/Firm/Business must assure that contract employees are trained on: performing the job safely, of the hazards related to the job, and other applicable provisions of the OSHA Standards. The program is a systematic approach that must be used to evaluate Contractor/Firm/Business personnel used in the conduct of business at the City of Franklin.

The City of Franklin does not take responsibility for the safety of the Contractor's/Firm's/Business' employees. Nor does the City take responsibility for instructing Contractors/Firms/Businesses on how to perform work. Rather, this program spells out what is expected of Contractors/Firms/Businesses conducting work for the City of Franklin.

Contractors/Firms/Businesses are defined as non-city government individuals or businesses that are retained by the City to provide specific labor or services.

2. RESPONSIBILITIES OF THE CONTRACTOR/FIRM/BUSINESS

Contractor/Firm/Business compliance with all state and federal occupational safety and health standards is a condition of doing business with the City of Franklin. Contractors/Firms/Businesses have the responsibility to:

- Conduct daily safety inspections of all assigned areas.
- Identify and correct hazards within their responsibility and report hazards to the city.
- Provide Contractor/Firm/Business employees with personal protective equipment as needed to safely perform contracted tasks.
- Ensure Contractor/Firm/Business employees have the training for assigned tasks as is required by state and federal occupational safety and health standards.
- Coordinate with City Health and Safety Manager for safety related issues that may affect city operations.
- Establish and maintain an effective safety and health program for Contractor/Firm/Business employees.
- Establish and maintain an effective safe housekeeping program.
- Make available for inspection by the City any written safety programs, safety datasheets, training records and other safety-related documents.

3. MONITORING AND INSPECTIONS

All Contractors/Firms/Businesses and subcontractors working under contract with the City of Franklin are subject to regular safety, health and environmental monitoring by the City.

4. HAZARDOUS CHEMICAL / SUBSTANCE NOTIFICATION

Contractors/Firms/Businesses must follow state and federal Occupational Safety and Health Administration Hazard Communication standard requirements including use, safe handling and storage of chemicals. Contractors/Firms/Businesses are required to inform the City of all hazardous substances which may be brought on to City property, including providing the most current Safety Data Sheet (MSDS)/(SDS) for each substance. All spills and leaks of hazardous chemicals shall be immediately reported to the City Health & Safety Manager.

5. WORK ZONE TRAFFIC CONTROL

All Contractors/Firms/Businesses conducting work which involve traffic control in the public way shall comply with the Federal Highway Administration's Manual on Uniform Traffic Control Devices. The City Traffic Engineer (931-645-7464) should also be contacted prior to commencing operations. This measure is to insure the safety of workers and the public.

6. DUE REGARD FOR THE PUBLIC

All Contractors/Firms/Businesses and their employees while engaged in work for the City of Franklin shall exercise due regard and reasonable care for the safety of the public.

7. OTHER POLICIES AND PROCEDURES

All Contractor/Firm/Business employees shall adhere to all City policies and procedures, including but not limited to: access to City facilities and equipment, use of controlled substances, firearm & explosive restrictions, harassment of other persons, traffic and parking regulations.

The City's policies and procedures can be found at www.cityofFranklin.com

8. CONTACT INFORMATION FOR CITY SAFETY COORDINATOR

Contact the Human Resources Dept. 103 3rd Avenue South, Franklin, TN 37064, (615)794-3216 ext:6984, Email: chris.edwards@franklintn.gov

9. ENVIRONMENTAL, SAFETY AND HEALTH SOURCES OF INFORMATION

- TENNESSEE OSHA: <https://www.tn.gov/workforce/section/tosha>
- FEDERAL OSHA: <https://www.osha.gov/>
- TENNESSEE DEPARTMENT OF ENVIRONMENT & CONSERVATION:
<http://www.tennessee.gov/environment>

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CONTRACTOR/FIRM/BUSINESS SAFETY INFORMATION

PURPOSE: The purpose of this questionnaire is to provide the City of Franklin with necessary information about your company’s safety program and performance. All items must be completed.

Company Name: _____

Address: _____

Name of Safety Officer/Director: _____ Phone #: _____
(Person responsible for safety)

Email: _____

1. Provide information regarding Contractor’s/Firm’s/Business’ safety organization and safety performance.

Safety Certifications		
Certification Name	Issuing Agency	Expiration

2. Provide Worker’s Compensation Insurance Experience Modification Rate (EMR), Total Recordable Frequency Rate (TRFR) for incidents, and Total Number of Recorded Manhours (MH) for the last 3 years and the EMR, TRFR, and MH history for the last 3 years of any proposed Subcontractor(s) that will provide Work valued at 10% or more of the Contract Price. Provide documentation of the EMR history for Contractor/Firm/Business and Subcontractor(s).

Year									
Company	EMR	TRFR	MH	EMR	TRFR	MH	EMR	TRFR	MH

3. Accident/Injury Experience

Using last year’s OSHA 300 Log or Worker’s Compensation Documentation, fill in the following:

- i) Number of recordable injuries/illnesses _____
- ii) Number of restricted work days _____
- iii) Number of lost work days _____
- iv) Number of fatalities _____

v) Employee hours worked last year _____

vi) Number of injuries/illnesses requiring hospitalization _____

4. Safety Program

i) Does your company have a written safety program?

Yes _____ No _____

ii) Is the program revised/updated annually?

Yes _____ No _____

iii) Does your written program contain a statement that your company abides by all federal (OSHA), state and local rules and regulations relating to safe work practices?

Yes _____ No _____

iv) Do you have a new hire orientation program pertaining to safety training?

Yes _____ No _____

v) Does it include any training on the following? (If your company has a handbook, please submit a copy).

Yes _____ No _____

Head Protection

Eye Protection

Hearing Protection

Respiratory Protection

Fall Protection

Scaffolding

Housekeeping

Fire Protection

Confined Space Entry

Emergency Procedures

Hazardous Substances

Trench & Evacuation

Barricades

Electrical Safety

Rigging & Crane Safety

Hand & Power Tool Safety

Hand Protection

Others

vi) Do you have a foreman safety training program?

Yes _____ No _____ If yes, please include an outline.

vii) Do you conduct regular safety meetings? Yes _____ No _____

viii) How often? _____ Are records kept? Yes _____ No _____

ix) Do you generate accident investigation reports? Yes _____ No _____

x) Do you perform project safety inspections?

Yes _____ No _____

Who conducts them? Name _____

Job Title _____

How often? _____

5. Lockout/Tagout

Does the work that you are submitting a bid for, involve any "Lockout/Tagout" situations?

Yes _____ No _____

If yes, please submit a copy of your written Lockout/Tagout procedures.

6. Hazard Communication

Does the work that you are submitting a bid for, involve the use of any "Hazardous Substances"?

Yes _____ No _____

If yes, please submit a copy of your written hazard communication program and material safety data sheets for any hazardous substance that you will be using in your work.

7. Confined Spaces

Does the work you are bidding involve working in a "Confined Space"?

Yes _____ No _____

If yes, include your work plan, copies of training certification of the pertinent employees, entry permit and who will be in the confined space permit-required.

8. Elevated Work and Fall Protection

Does the work that you are submitting a bid for, involve any "Elevated Work"?

Yes _____ No _____

If yes, please submit a copy of your fall protection and elevated work rules policy.

9. Powered Industrial Vehicles

i) Does the work that you are submitting a bid for, involve the use of any powered industrial vehicles? (i.e., fork trucks, highlifts, etc.)

Yes _____ No _____

ii) Have designated people been trained on such?

Yes _____ No _____

10. Respiratory Compliance

i) Does your company have a written respiratory program or policy?

Yes _____ No _____

ii) Have employees been fit tested quantitatively or qualitatively?

Yes _____ No _____

iii) Do you have established medical surveillance procedures?

Yes _____ No _____

iv) What type of respiratory training has your employee had?

v) What type of respiratory equipment are they permitted to wear?

11. Key Personnel

List the key onsite people you would use for this project.

Name: _____ Title: _____

Name: _____ Title: _____

For City Use Only

Recommendations:		
Comments:		
Authorization		
Approved:	*YES	NO

* Further detailed on attachment: YES _____ NO _____

I certify that I have conducted a review of the information contained in this questionnaire and approved the contractor/firm/business for the above described work.

Name:	Title: Health & Safety Manager
Signature:	
Date:	Time:

**CONTRACTOR / FIRM / BUSINESS ACKNOWLEDGEMENT OF RECEIPT OF
CITY OF FRANKLIN CONTRACTOR/FIRM/BUSINESS SAFETY PROGRAM**

Contractor/Firm/Business Name: _____

Contractor's/Firm's/Business' Authorized Safety Representative: _____

Contractor's/Firm's/Business' Authorized Agent: _____
(Printed Name)

I acknowledge receipt of and agree to comply with the City of Franklin's Contractor/Firm/Business Safety Program. I will also make employees and subcontractors aware of City's safety expectations and requirements.

I understand that any accidents, injuries or property damage will be reported to the City Health and Safety Manager within three (3) days.

I also understand that any questions regarding the program can be directed to the contracting department head and/or the City Health & Safety Manager.

I certify that all personnel conducting work have been trained in accordance with Occupational Safety and Health Administration regulation: 29 Code of Federal Regulations §1910/1926.

Contractor's/Firm's/Business' Authorized Agent: _____
(Signature)

Date: _____

SECTION C-453

CONFLICT OF INTEREST STATEMENT

Contractor/Firm/Business Name: _____

Contractor's/Firm's/Business' Authorized Agent: _____
(Printed Name)

I hereby certify that this bid/proposal is submitted in conformance with the City of Franklin's conflict of interest restrictions. No employee of the City of Franklin, officer, agent, any member of an employee's immediate family or his or her partner has any financial interest or a tangible personal benefit in the profit of any contract, service or other work performed as a result of my submission of this bid/proposal. A conflict of interest would also arise when the parties indicated herein are employed or about to be employed by the person or company submitting this bid/proposal. Additionally, no party indicated herein has an indirect interest in the contract, which is the subject of this bid/proposal*.

In the event I am providing a service** to the City of Franklin, I certify that I have no conflict of interest relating to the service to be provided pursuant to this Request for Proposals (RFP), Request for Qualifications (RFQ) or the project/work.

Should a conflict arise at any time during the duration of the contract, agreement, etc., it is the vendor's responsibility to inform the City of said conflict within 30 days.

Therefore, the undersigned (corporation, partnership, limited liability company, or other business organization or individual) has no conflict of interest, or potential conflict of interest in connection with this proposal or in connection with any contract executed or to be executed, concerning or with response to this RFP/RFQ for this project/work.

* **"Indirect Interest"** means any contract in which an employee has no direct interest however a spouse or relative has an interest in the contract. *A conflict of interest exists if a spouse or relative commingle their assets.* Examples of commingling assets include sharing a joint-checking account or jointly owned property together with a company or person doing business with the City of Franklin.

** **"Service Vendors"** include but are not limited to: architects, engineers, appraisers, surveyors, accountants, etc.

Contractor's/Firm's/Business' Authorized Agent: _____
(Signature)

Date: _____

SECTION C-454

DRUG-FREE WORKPLACE AFFIDAVIT

Contractor/Firm/Business Name: _____

Contractor's/Firm's/Business' Authorized Agent: _____
(Printed Name)

(Check applicable box)

- ☐ I hereby state that, as an employer, I have adopted a Drug-Free Workplace policy, which meets the criteria set forth by the Tennessee Department of Labor and Workforce Development and at a minimum the requirements of the City of Franklin's Drug-Free Workplace program, which includes pre-employment drug testing, reasonable suspicion drug testing and, when applicable, compliance with the U.S. Department of Transportation Procedures for Transportation Workplace Drug Testing Programs as specified in Title 49 of the Code of Federal Regulations (CFR) Part 40 and Title 49 CFR Part 199.

Said Drug-Free Workplace program is in compliance with the Tennessee Drug-Free Workplace Act, Tennessee Code Annotated §50-9-101 *et sequentia*.

- ☐ I hereby state that I employ less than five (5) employees, and I am not required to submit the Drug-Free Workplace Affidavit.

Contractor's/Firm's/Business' Authorized Agent: _____
(Signature)

Date: _____

Bid No. _____

SECTION C-455

ATTESTATION REGARDING ILLEGAL IMMIGRANTS or ALIENS

Contractor/Firm/Business Name: _____

Contractor's/Firm's/Business' Authorized Agent: _____
(Printed Name)

Pursuant to Tennessee Code Annotated §12-3-309, and Section 6-105 of the Official Code of the City of Franklin, I (we), the Contractor/Firm/Business identified above, hereby attest, certify, warrant and assure that I (we) will not knowingly utilize the services of any illegal immigrant or alien in the performance of this Contract, and will not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant or alien in the performance of this Contract.

Contractor's/Firm's/Business' Authorized Agent: _____
(Signature)

Date: _____

SECTION C-456

IRAN DIVESTMENT ACT CERTIFICATION

Contractor/Firm/Business Name: _____

Contractor's/Firm's/Business' Authorized Agent: _____
(Printed Name)

By submission of this bid/proposal, each contractor/firm/business and each person signing on behalf of the contractor/firm/business certifies, and in the case of a joint bid/proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each contractor/firm/business is not on the list created pursuant to Tennessee Code Annotated §12-12-106 in reference to the Iran Divestment Act.

This act prohibits a person identified on the list from contracting with a local government and makes any contract entered into void. The State of Tennessee list can be found at:

<https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library-/public-information-library.html>.

The undersigned hereby certifies that he or she is authorized by the contractor/firm/business to certify that his/her company is not on the list.

Contractor's/Firm's/Business' Authorized Agent: _____
(Signature)

Date: _____

SECTION C-470

STATEMENT OF NO BID

If planholder is not submitting a bid on the goods and/or services as stated in this document, please complete and fax this form to (931) 553-2409 or mail to: The City of Franklin, Purchasing Office, P.O. Box 928, Franklin, TN 37041-0928.

Firm Name	
Contact Person	
Address	
City / State / Zip	
Phone Number	

The above has declined to submit a bid for the following reason(s):
(check all that apply)

☐	Cannot meet specifications as established
☐	Specifications were unclear
☐	Planholder does not offer this commodity/service or an equivalent
☐	Insufficient time to respond to bid
☐	Cannot meet delivery requirements
☐	Planholder's schedule would not permit it to perform in the time allotted
COMMENTS:	

Signature

Date

CONSTRUCTION AGREEMENT BETWEEN OWNER AND CONTRACTOR (STIPULATED PRICE)

This Agreement is by and between **City of Franklin, Tennessee** ("Owner") and _____ ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions of the Construction Contract ("General Conditions").

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

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

- Site clearing, grading, and utility installation to serve pilot building and pump station.
- Construction of pump station, connection to existing infrastructure, auxiliary equipment, piping, valves, and appurtenances for reuse water service.
- Construction of pilot building for installation and operation of pilot skids, tanks, auxiliary equipment, piping, valves, and appurtenances for evaluation treatment performance to meet advanced treatment levels prior to discharge.
- Installation, start-up and commissioning of Owner furnished pilot equipment consisting of five skid mounted systems, tanks, pump skids, chemical systems, piping, valves, and appurtenances. Successful Bidder shall coordinate with Owner regarding pilot delivery schedule, training requirements, and start-up/commissioning services in accordance with the Owner's agreement with pilot equipment Suppliers.
- Building services including electrical, instrumentation and control, potable water, sewer, HVAC, and plumbing for the pilot building.

ARTICLE 2—THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Construction of pump station to reuse water system. Construction of pilot building, pilot equipment and appurtenance, and ancillary systems for the Owner's use in pilot testing various treatment technologies.

ARTICLE 3—ENGINEER

- 3.01 The Owner has retained Hazen and Sawyer ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.
- 3.02 The part of the Project that pertains to the Work has been designed by:
- A. Hazen and Sawyer: City of Franklin, Southeast Basin Pilot Building
 - B. Hethcoat & Davis: City of Franklin, Pump Station Redwing Reclaimed Water

ARTICLE 4—CONTRACT TIMES

- 4.01 *Time is of the Essence*
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.02 *Contract Times: Days*
- A. The Work will be substantially complete within _____ days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within _____ days after the date when the Contract Times commence to run.
- 4.03 *Milestones*
- A. If indicated below, parts of the Work shall be substantially completed on or before the following Milestone(s), or as otherwise set forth in individual Work Orders:
 - 1. Milestone 1: 185 calendar days after execution of construction Notice to Proceed shall be Substantial Completion of the Pilot Building.
 - 2. Milestone 2: 210 calendar days after execution of construction Notice to Proceed shall be Substantial Completion of the Red Wing Reclaimed Water Pump Station.
- 4.04 *Liquidated Damages and Bonus*
- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01, that Owner will suffer financial and other losses if the Work is not completed or any applicable Milestones are not achieved within the Contract Times, and that the extent of such losses is difficult to determine in advance. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay:

1. *Substantial Completion*: Contractor shall pay Owner \$1,500.00 for each day that expires after the time specified in Paragraph 4.02 (or applicable Work Order) for Substantial Completion until the Work is substantially complete.
 2. *Completion of Remaining Work*: Contractor shall pay Owner \$1,500.00 for each day that expires after the time specified in Paragraph 4.02 (or applicable Work Order) for Final Completion until Work is finally complete.
 3. *Milestones*: Contractor shall pay Owner \$1,500.00 for each day that expires after the time specified in Paragraph 4.03 (or the applicable Work Order) for achievement of any applicable Milestones until the applicable Milestone is achieved or until the time specified for Substantial Completion is reached, at which time the rate indicated in Paragraph 4.04.A.1 shall apply, rather than the Milestone rate.
 4. Liquidated damages for failing to timely achieve any applicable Milestones, Substantial Completion, and Final Completion are mutually exclusive, and shall not be imposed concurrently (except with respect to Work performed under separate Work Orders). If at any time Contractor has failed to achieve more than one applicable Milestones and/or Contract Times, liquidated damages shall be calculated using the highest applicable rate in Paragraph 4.04.A.1, 2, or 3.
- B. The parties acknowledge and agree that the foregoing liquidated damages are a fair and reasonable estimate of the losses Owner will suffer in the event of delay by Contractor and are not a penalty. If Owner recovers liquidated damages for a delay by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

4.05 *Special Damages*

- A. Contractor shall reimburse Owner (1) for all fines and penalties imposed on Owner as a result of Contractor's failure to achieve Substantial Completion within the time specified in Paragraph 4.02 (or the applicable Work Order) for Substantial Completion, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 (or the applicable Work Order) for Substantial Completion, until the Work is substantially complete.
- B. Contractor shall reimburse Owner for all actual costs reasonably incurred by Owner in mitigating or avoiding delays and disruptions to the Work caused by or within the control of any of the Contractor Parties.
- C. After Contractor achieves Substantial Completion, if Contractor fails to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 (or the applicable Work Order) for Final Completion, until the Work is finally complete.
- D. The special damages imposed in this paragraph are in addition to any liquidated damages for delayed completion established in this Agreement.

ARTICLE 5—CONTRACT PRICE

- 5.01 Conditioned upon Contractor's performance and completion of the Work and other obligations in accordance with the Contract Documents, Owner shall pay Contractor as set forth in Article 5 for all Work at the price(s) stated in Contractor's Bid (attached as an exhibit to this Agreement), subject to adjustment under the Contract Documents.

ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Owner as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the last day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
- a. Ninety-five percent (95%) of Work completed (with the balance being retainage).
- b. Ninety-five percent (95%) of cost of materials and equipment purchased, but not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay the full amount due to Contractor for Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Owner's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to Final Completion.

6.03 *Final Payment*

- A. Upon Final Completion and Owner's acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

- A. Owner will not make final payment unless Contractor submits written consent of the surety to such payment.

ARTICLE 7—CONTRACT DOCUMENTS AND TECHNICAL DATA

7.01 *Contents of Contract Documents*

- A. The Contract Documents consist of all of the following:
1. This Agreement.
 2. Work Orders issued under this Agreement.
 3. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 4. General Conditions.
 5. Supplementary Conditions, if any.
 6. Specifications as listed in the table of contents of the project manual (copy of list attached).
 7. The most recent edition of the following specifications as of the Effective Date of the Contract, except to the extent such specifications (i) do not apply based on the nature of the Project (e.g., road, bridge, street, water, or sewer), or (ii) conflict with another Contract Document identified in this Paragraph 7.01.A, in which case the conflicting provision of other Contract Document shall take precedence and control:
 - a. TDOT Standard Specifications for Road and Bridge Construction.
 - b. City of Franklin Street Specifications.
 - c. City of Franklin Water and Sanitary Sewer Specifications.
 8. Drawings listed on the attached sheet index.
 9. Addenda (numbers _____ to _____, inclusive).
 10. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid
 - b. Documentation submitted by Contractor prior to Notice of Award (pages to, inclusive).
 - c. Contractor/Firm/Business Safety Information.
 - d. Acknowledgement of Receipt of City of Franklin Contractor/Firm/Business Safety Program.
 - e. Conflict of Interest Statement.
 - f. Drug-Free Workplace Affidavit.
 - g. Contractor's Attestation Regarding Illegal Immigrants or Aliens.
 - h. Iran Divestment Act Certification.
 11. The following, if issued or signed on or after the Effective Date of the Contract and are not attached hereto:

- a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are incorporated by reference and are part of the Contract whether attached to this Agreement or not.
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented in a writing signed by Owner and as otherwise provided in the Contract Documents, and all such amendments, modifications, and supplementations are limited to the matters specifically addressed in the applicable writing. No one is authorized by Owner to orally amend, modify, supplement, or waive any provision, or any of Owner's or Contractor's duties and obligations under, the Contract Documents.
- E. Unless otherwise expressly stated, where reference is made in this Agreement or the General Conditions to a particular Paragraph or Article number, the reference refers to the corresponding Paragraph or Article in the document in which the reference appears.

7.02 Technical Data Regarding Existing Surface and Subsurface Conditions

- A. The following table lists the reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data, and specifically identifies the Technical Data in the report upon which Contractor may reasonably rely:

Report Title	Date of Report	Technical Data
N/A		

- B. The following table lists the drawings known to Owner of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data, and specifically identifies the Technical Data upon which Contractor may reasonably rely:

Drawings Title	Date of Drawings	Technical Data
N/A		

- C. Contractor may examine during regular business hours copies of reports and drawings identified in Paragraphs 7.02.A and 7.02.B that were not included with the Bidding Documents at 109 3rd Ave South, Franklin, TN, or may request copies from Owner.

7.03 Technical Data Regarding Hazardous Environmental Conditions

- A. The following table lists the reports known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and the Technical Data (if any) upon which Contractor may reasonably rely:

Report Title	Date of Report	Technical Data
N/A		

- B. The following table lists the drawings known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and Technical Data (if any) contained in such Drawings upon which Contractor may reasonably rely:

Drawings Title	Date of Drawings		Technical Data
N/A			

- C. Contractor may examine during regular business hours copies of reports and drawings identified in Paragraphs 7.03.A and 7.03.B that were not included with the Bidding Documents at 109 3rd Ave South, Franklin, TN, or may request copies from Owner.

ARTICLE 8—INSURANCE LIMITS

- 8.01 Contractor shall purchase and maintain the following types of insurance as more fully set forth in Article 6 of the General Conditions. Such insurance shall be written for not less than the limits set forth below.

- A. *Commercial General Liability:*

Commercial General Liability	Policy limits of not less than:
General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Bodily Injury and Property Damage – Each Occurrence	\$1,000,000

- B. *Automobile Liability:*

Automobile Liability	Policy limits of not less than:
Bodily Injury	
Each Person	\$1,000,000
Each Accident	\$1,000,000
Property Damage	
Each Accident	\$1,000,000

- C. *Worker's Compensation and Employer's Liability:*

Worker's Compensation and Employer's Liability	Policy limits of not less than:
State and Federal (as applicable)	Statutory Limit
Employer's Liability (accident – per occurrence)	\$1,000,000
Employer's Liability (disease – policy limit)	\$1,000,000
Employer's Liability (disease – policy limit)	\$1,000,000

- D. *Umbrella or Excess Liability:*

Umbrella or Excess Liability	Policy limits of not less than:
Each Occurrence	\$5,000,000
General Aggregate	\$5,000,000

ARTICLE 9—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

- 9.01 *Contractor's Representations*

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:

EJCDC® C-520, Agreement between Owner and Contractor for Construction Contract (Stipulated Price)

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1. Contractor has examined and carefully studied the Contract Documents.
2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Contract Documents or otherwise made available to Contractor with respect to the Technical Data in such reports and drawings.
5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Contract Documents or otherwise made available to Contractor, with respect to Technical Data in such reports and drawings.
6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
7. Based on the information and observations referred to above, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other provisions of the Contract Documents.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents and Technical Data, and the resolution thereof by Owner or Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all requirements for performance of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performance of the Work as required by the Contract Documents.
12. Contractor is authorized to do business in Tennessee and is properly licensed and registered as necessary by or with all governmental and public and quasi-public authorities having jurisdiction over the Contractor, the Work, and the Project.
13. Contractor possesses a high level of experience, expertise, and competence in the business of administration, construction, construction management, and

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superintendence of projects of the size, complexity, and nature of the Project, and shall perform the Work with the care, skill, and diligence of such a contractor.

9.02 *Contractor's Certifications*

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

9.03 *Standard General Conditions*

- A. Owner has developed and provided Owner's own General Conditions that are made a part of this Contract. The General Conditions made part of this Contract are a modified version of EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and are based in part on excerpts from copyrighted EJCDC documents. Owner has not shown modifications to the standard wording of such published document in the Contract Documents. Contractor shall be responsible for reviewing and understanding the Owner's General Conditions that are made a part of this Contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____, 20____ (which is the Effective Date of the Contract).

Owner:

City of Franklin, Tennessee

(typed or printed name of organization)

By:

(individual's signature)

Date:

(date signed)

Name: Eric S. Stuckey

(typed or printed)

Title: City Administrator

(typed or printed)

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

109 3rd Ave South

Franklin, TN 37064

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

Phone:

Email:

Contractor:

(typed or printed name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

(typed or printed)

Title:

(typed or printed)

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

Phone:

Email:

License No.:

(where applicable)

State:

EJCDC® C-520, Agreement between Owner and Contractor for Construction Contract (Stipulated Price)

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SECTION C-610

PERFORMANCE BOND

Contractor Name: _____ Address (<i>principal place of business</i>): _____	Surety Name: _____ Address (<i>principal place of business</i>): _____
Owner Name: City of Franklin Mailing address (<i>principal place of business</i>): 103 Third Avenue South Franklin, TN 37064	Contract Description (<i>name and location</i>): Franklin Southeast Basin Pilot Franklin, Tennessee Contract Price: _____ Effective Date of Contract: _____
Bond Bond Amount: _____ Date of Bond: _____ (Date of Bond cannot be earlier than Effective Date of Contract) Modifications to this Bond form: ☒ None ☐ See Paragraph 16	
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Performance Bond, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.	
Contractor as Principal	Surety
_____ (Full formal name of Contractor)	_____ (Full formal name of Surety) (corporate seal)
By: _____ (Signature)	By: _____ (Signature)(Attach Power of Attorney)
Name: _____ (Printed or typed)	Name: _____ (Printed or typed)
Title: _____	Title: _____
Attest: _____ (Signature)	Attest: _____ (Signature)
Name: _____ (Printed or typed)	Name: _____ (Printed or typed)
Title: _____	Title: _____
Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.	

EJCDC® C-610, Performance Bond.

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1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
 2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
 3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond will arise after:
 - 3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 will be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement does not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - 3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
 - 3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
 4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 does not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
 5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
 - 5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
 - 5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
 - 5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
-

- 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
 - 5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
- 6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment, or the Surety has denied liability, in whole or in part, without further notice, the Owner shall be entitled to enforce any remedy available to the Owner.
 - 7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety will not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
 - 7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
 - 7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
 - 8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
 - 9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price will not be reduced or set off on account of any such unrelated obligations. No right of action will accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
 - 10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
 - 11. Any proceeding, legal or equitable, under this Bond must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit will be applicable.
 - 12. Notice to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears.
 - 13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted therefrom and provisions conforming to such

statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.

14. Definitions

- 14.1. *Balance of the Contract Price*—The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
 - 14.2. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.
 - 14.3. *Contractor Default*—Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.
 - 14.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 14.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
16. Modifications to this Bond are as follows: None

SECTION C-615

PAYMENT BOND

Contractor Name: Address (<i>principal place of business</i>):	Surety Name: Address (<i>principal place of business</i>):
Owner Name: City of Franklin Mailing address (<i>principal place of business</i>): 103 Third Avenue South Franklin, TN 37064	Contract Description (<i>name and location</i>): Franklin Southeast Basin Pilot Franklin, Tennessee Contract Price: Effective Date of Contract:
Bond Bond Amount: Date of Bond: (<i>Date of Bond cannot be earlier than Effective Date of Contract</i>) Modifications to this Bond form: ☒ None ☐ See Paragraph 18	
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Payment Bond, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.	
Contractor as Principal	Surety
By: _____ (<i>Full formal name of Contractor</i>)	By: _____ (<i>Full formal name of Surety</i>) (<i>corporate seal</i>)
Name: _____ (<i>Signature</i>)	Name: _____ (<i>Signature</i>)(<i>Attach Power of Attorney</i>)
Title: _____ (<i>Printed or typed</i>)	Title: _____ (<i>Printed or typed</i>)
Attest: _____ (<i>Signature</i>)	Attest: _____ (<i>Signature</i>)
Name: _____ (<i>Printed or typed</i>)	Name: _____ (<i>Printed or typed</i>)
Title: _____	Title: _____
Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.	

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond will arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond will arise after the following:
 - 5.1. Claimants who do not have a direct contract with the Contractor
 - 5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2. Pay or arrange for payment of any undisputed amounts.
 - 7.3. The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 will not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety

shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

8. The Surety's total obligation will not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond will be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract will be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfying obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action will be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit will be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, will be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted here from and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. Definitions
 - 16.1. *Claim*—A written statement by the Claimant including at a minimum:
 - 16.1.1. The name of the Claimant;
 - 16.1.2. The name of the person for whom the labor was done, or materials or equipment furnished;

- 16.1.3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 - 16.1.4. A brief description of the labor, materials, or equipment furnished;
 - 16.1.5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 - 16.1.6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 - 16.1.7. The total amount of previous payments received by the Claimant; and
 - 16.1.8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
- 16.2. *Claimant*—An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond is to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
- 16.3. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
- 16.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- 16.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
18. Modifications to this Bond are as follows: None

CITY OF FRANKLIN GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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CITY OF FRANKLIN

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, shall have the meaning indicated in the definitions in this Paragraph 1.01. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments that clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, signed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Owner, to request progress or final payments, and that is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The Advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document that is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Owner concerning the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the Contract.
 10. *Claim*
 - a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract

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- Price or Contract Times; contesting the acceptability of Work under the Contract Documents; or seeking other relief with respect to the Contract.
- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Owner's decision regarding a Change Proposal.
 - c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Owner has made a determination regarding Final Completion.
 - d. A demand for money or services by a third party is not a Claim.
11. *Constituents of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, or any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning (a) pollution, (b) protection of human health or the environment, or (c) any hazardous, toxic, or otherwise dangerous waste, substance, or material.
 12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
 13. *Contract Documents*—Those items so designated in the Agreement (or applicable Work Orders), and that together comprise the Contract.
 14. *Contract Price*—The money that Owner has agreed to pay Contractor in accordance with the Contract Documents.
 15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work, as such days or dates might be adjusted or modified under the Contract.
 16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
 17. *Contractor Parties*—Contractor, its Subcontractors, Suppliers, and anyone directly or indirectly employed, retained or contracted by any of them, and anyone for whose acts any of them is responsible or liable with respect to the Project.
 18. *Cost of the Work*—See Paragraph 13.01 for definition.
 19. *Critical Path*—The sequence and duration of activities of Work that control the duration of the Project.
 20. *Drawings*—The part of the Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
 21. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
 22. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.

23. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
24. *Engineer*—The individual or entity named as such in the Agreement.
25. *Field Order*—A written order issued by Owner that requires minor changes in the Work but does not change the Contract Price or the Contract Times.
26. *Final Completion*—The stage at which all of Contractor’s obligations under the Contract Documents, and specifically under Paragraph 15.06, have been satisfied and final payment is due from Owner to Contractor. The terms “finally complete” and “finally completed” as applied to the Work refer to Final Completion.
27. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that might present a danger to persons or property exposed thereto.
- a. The presence at the Site of materials that are necessary for the performance of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
 - b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
 - c. The presence of Constituents of Concern that are part of the routine and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
28. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
29. *Liens*—Charges, liens, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
30. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
31. *Notice of Award*—The written notice by Owner to a Bidder of Owner’s acceptance of the Bid.
32. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times shall commence to run and on which Contractor shall start to perform the Work.
33. *Owner*—The City of Franklin, Tennessee.

34. *Owner Parties*—Owner and its executives, officers, managers, board members, agents, and employees.
35. *Progress Schedule*—A schedule prepared and maintained by Contractor in accordance with the Contract, describing the sequence and duration of the activities comprising Contractor's obligation to accomplish the Work within the Contract Times.
36. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work shall be judged.
38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor in accordance with the Contract, of required submittals and the time requirements for review of the submittals.
39. *Schedule of Values*—A schedule, prepared and maintained by Contractor in accordance with the Contract, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
41. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner designated for the use of Contractor.
42. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
43. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
44. *Submittal*—A written or graphic document, prepared by or for Contractor, that the Contract Documents require Contractor to submit to Owner, or that is indicated as a Submittal in the Schedule of Submittals. Submittals include but are not limited to Shop Drawings and Samples; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
45. *Substantial Completion*—The stage at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Owner, the Work (or a specified part

thereof) is sufficiently complete in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be fully utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion of such Work. In addition to the foregoing, the Work shall not be considered to have achieved Substantial Completion until all of the following conditions have been met:

- a. All traffic lanes included as part of the Work, including shoulders and ramps, are in their final alignment, and the final wearing surface and all sidewalks, curbs, drainage features, markings, permanent safety appurtenances, lighting, traffic signals, and signing as shown in the Contract Documents have been installed.
- b. All public utilities and private utility services included as part of the Work have been appropriately installed and successfully passed all required testing.
- c. All final grading included as part of the Work is complete, and the Site has been 100% stabilized with permanent and temporary erosion and sediment control features.
- d. The value of all remaining Work is less than 2.5% of the Contract Price, and the remaining Work will not affect the safety or operations of any infrastructure or roadway, and will not significantly impact the public.

46. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.

47. *Supplementary Conditions*—Any part of the Specifications that purports to amend or supplement these General Conditions. These General Conditions shall take precedence and control over any such Supplementary Conditions, except with respect to any written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work.

48. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

49. *Technical Data*

- a. Those items expressly identified as Technical Data in the Agreement (or the applicable Work Order), with respect to (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site, including existing surface or subsurface structures (except Underground Facilities), and (2) Hazardous Environmental Conditions.
- b. Data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions reports regarding the Site that are identified in the Contract Documents or otherwise made available to Contractor.
- c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.

50. *Underground Facilities*—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
51. *Unit Price Work*—Work to be paid for on the basis of unit prices.
52. *Work*—The entire construction, including the various separately identifiable parts thereof, required to be provided under the Contract Documents. Work includes and is the result of, without limitation, performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and might include, without limitation, related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
53. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner, ordering an addition, deletion, or revision in the Work.
54. *Work Order*—A document issued by Owner to Contractor under the Agreement authorizing certain Work to be performed on the Project, and indicating the quantities of Work to be performed, the location(s) where the Work is to be performed, time limits within which the Work is to be performed, and other details pertinent to the applicable portion of the Work.

1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms*
 1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of judgment by Owner. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Owner as to the Work. It is intended that such exercise of judgment, action, or determination shall be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Owner any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
 2. The Contract Documents frequently omit modifying words such as “all” and “any,” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from

one statement and appears in another is not intended to affect the interpretation of either statement. When used in the Contract Documents, unless the context clearly dictates otherwise, (1) the singular shall include the plural, and vice versa, (2) the use of the masculine, feminine or neuter gender shall include all other genders, as appropriate, and (3) the disjunctive “or” shall include the conjunctive “and,” and vice versa.

- C. *Day*: Except as otherwise specifically stated, the word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective*: The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - 1. does not conform to the Contract Documents;
 - 2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - 3. has been damaged prior to final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).
- E. *Furnish, Install, Perform, Provide*
 - 1. The word “furnish,” when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location approved by Owner) ready for use or installation and in usable or operable condition.
 - 2. The word “install,” when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 - 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 - 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. *Contract Price or Contract Times*: References to a change in “Contract Price or Contract Times” or “Contract Times or Contract Price” or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, each as reasonably determined by Owner, even if the term “or both” is not expressed.
- G. *Set-Off*: As used in the Contract Documents, Owner’s right to impose a “set-off” also includes, without limitation, Owner’s right to payment and recovery of the pertinent amount from Contractor.
- H. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2—PRELIMINARY MATTERS

2.01 *Delivery of Performance and Payment Bonds; Evidence of Insurance*

- A. *Performance and Payment Bonds*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).
- B. *Evidence of Contractor's Insurance*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the policies, certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor one fully signed counterpart of the Agreement, and one copy in electronic portable document format (PDF).
- B. Owner shall maintain and safeguard at least one original printed version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed version of the Contract available to Contractor for review.

2.03 ***Before Starting Construction***

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Owner for timely review a preliminary schedule including:
 - 1.
 - 2. The planned start and completion dates for each activity, the duration of each activity, and the sequencing of all activities. If activities have durations of more than one updated period, break the activities into two or more activities distinguished by location or some other feature.
 - 3. Dates related to the procurement of materials, equipment and articles of special manufacture; and dates related to the submission of working drawings, plans and other data specified for review or approval by Owner.
 - 4. Dates related to key Owner inspections.
 - 5. Dates related to specified activities by the Owner and third parties, and times for starting and completing the various stages of Work, including but not limited to all Milestones specified in the Contract.
 - 6. A preliminary Schedule of Submittals.
 - 7. A preliminary Schedule of Values for all of the Work, which includes quantities and prices of items that, when added together, equal the Contract Price, and which subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices shall include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designated Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate shall be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. Owner's and Contractor's Designated Representatives are those individuals identified as such in the Agreement (or the applicable Work Order). Subject to Paragraph 9.01 with respect to Owner, each party's Designated Representative is authorized to act as its authorized representative with respect to the services and responsibilities under the Contract. Subject to Paragraph 9.01 with respect to Owner, such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment, a conference, attended by Owner, Contractor, Engineer, and others as appropriate, shall be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment shall be made to Contractor until acceptable schedules are submitted to Owner in accordance with the following:
 - 1. The Progress Schedule shall provide for an orderly progression of the Work to completion within the Contract Times.
 - 2. Contractor's Schedule of Submittals shall provide a workable arrangement for reviewing and processing the required Submittals.
 - 3. Contractor's Schedule of Values shall provide for a reasonable allocation of the Contract Price to the component parts of the Work.
 - 4. If a schedule is not acceptable to Owner, Contractor shall have an additional 10 days to revise and resubmit the schedule. Acceptance of a schedule by Owner shall not impose on Owner responsibility for sequencing, scheduling, or progress of the Work, and shall not relieve Contractor from Contractor's full responsibility therefor.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.
- D. Notwithstanding anything in this Paragraph 2.06, all notices shall be sent as set forth in Paragraph 18.01.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe and require a functionally complete Project to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Owner or Engineer shall issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
 - 1. any rights or claims against Owner or any other Owner Parties in favor of Engineer, any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, or any other individual or entity not a party to the Contract; or
 - 2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as otherwise required by Laws and Regulations.

3.02 *Reference Standards*

- A. *Standards Specifications, Codes, Laws and Regulations*
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as otherwise specifically stated in the Contract Documents.
 - 2. No such provision or instruction shall be effective to assign to Owner or Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility inconsistent with the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall examine and carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Owner any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation from Owner, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Owner in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation from Owner, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*

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

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until Final Completion, Contractor shall submit to Owner in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Owner shall be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.
- B. Owner shall, with reasonable promptness, render or cause to be rendered a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or

supplement to the Contract Documents. Such written clarification, interpretation, or decision shall be final and binding on Contractor, unless it appeals by submitting a Change Proposal.

- C. If a submitted matter in question concerns the Contract Documents and Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including but not limited to electronic media versions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 shall survive Final Completion or earlier termination of the Contract. Nothing herein precludes Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. Unless the Contract states otherwise, the Contract Times shall commence to run on the day indicated in the Notice to Proceed . A Notice to Proceed may be given at any time **within 60 days after the Effective Date of the Contract**. In no event shall the Contract Times commence to run later than the actual commencement of the Work on the Project.

4.02 *Starting the Work*

- A. Unless the Contract states otherwise, Contractor shall start to perform the Work on the date indicated in the Notice to **Proceed**. No Work may be done at the Site prior to such date.

4.03 *Reference Points*

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

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it is adjusted from time to time as follows:
 - 1. Contractor shall submit to Owner for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible unreasonably delays, disrupts, or interferes with Contractor's performance or progress of the Work associated with the Critical Path, as shown on the Contractor's then-current Progress Schedule, then Contractor shall be entitled to an adjustment in the Contract Price or Contract Times, but only to the extent the delay, disruption, or interference affects Contractor's cost of, or time required for, performance of the Work, as reasonably determined by Owner. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of any of the Contractor Parties. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled under the Contract, to the extent such concurrent delay is not caused by any of the Contractor Parties.
- B. In any event, Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of any of the Contractor Parties.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an adjustment in Contract Times, but only to the extent the delay, disruption, or interference affects Contractor's cost of, or time required for, performance of the Work, as reasonably determined by Owner. Causes of delay, disruption, or interference that might give rise to an adjustment in Contract Times under this paragraph include the following:
 - 1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. Abnormal weather conditions;
 - 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
 - 4. Acts of war or terrorism.

5. *Weather-Related Delays*

- a. If “abnormal weather conditions” as set forth in Paragraph 4.05.C.2 are the basis for a request for an adjustment in the Contract Times, such request shall be governed by the Supplementary Conditions.
- D. Contractor’s entitlement to an adjustment of Contract Times or, if applicable, Contract Price, is limited as follows:
1. Contractor’s entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the Critical Path, as of the time of the delay, disruption, or interference.
 2. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request or Change Proposal seeking an increase in Contract Times or, if applicable, Contract Price shall be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
 2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
 3. The number of days’ increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
 4. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.

Contractor shall also furnish such additional supporting documentation as Owner requires, including but not limited to where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the Critical Path.

- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or one not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- H. Except as specifically set forth in the Contract, an adjustment of the Contract Times shall be Contractor’s sole and exclusive remedy for any delay, disruption, interference, hindrance or obstruction in Contractor’s commencement, performance or completion of the Work, loss of productivity, or other similar claims (collectively “Delays”), whether or not such Delays are foreseeable. In no event shall Contractor be entitled to any compensation or recovery of any damages in connection with any Delays, including but not limited to actual damages, consequential damages, lost opportunity costs, impact damages, extended general conditions, or other similar costs or damages. Owner’s exercise of any of its rights or remedies under the Contract, including but not limited to ordering changes in the Work, directing suspension of the Work, rescheduling, correction of the Work, or terminating the Contract for convenience, regardless of the extent or frequency of such exercise, shall not be construed as

a delay, disruption, or interference with Contractor's performance or progress of the Work under Paragraph 4.05.A.

ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any known encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor shall comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein.
- C. If necessary for timely and proper performance of the Work, Contractor shall arrange for use of and access to all additional lands required for temporary construction facilities and storage of materials and equipment.

5.02 *Use of Site and Other Areas*

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

- 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use or access through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any areas used for Contractor's operations; (c) damage to any other land or areas, or to improvements, structures, utilities, or similar facilities; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of any of the Contractor Parties.
- 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of any of the Contractor Parties, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the full extent permitted by Laws and Regulations, defend (at Owner's option in its sole discretion), indemnify and hold harmless the Owner Parties and Engineer, and the consultants and subcontractors of each and any of them, from and against all such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against any of the Owner Parties, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based

upon, performance of the Work, or because of other actions or conduct of any of the Contractor Parties.

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

5.03 *Subsurface and Physical Conditions*

- A. *Underground Facilities:* Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- B. *Reliance by Contractor on Technical Data:* Contractor may reasonably rely upon the accuracy of Technical Data.
- C. *Limitations of Other Data and Documents:* Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against any of the Owner Parties or Engineer, or any of their consultants or contractors, with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including but not limited to any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
 - 3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
 - 4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:
 - 1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to reasonably rely as provided in Paragraph 5.03 is materially inaccurate;
 - 2. is of such a nature as to require a change in the Drawings or Specifications;

3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until the Owner has a reasonable opportunity to review the subsurface or physical condition in question.

- B. *Owner's Review:* After receipt of written notice as required by the preceding paragraph, Owner shall promptly review the subsurface or physical condition in question; determine whether it is necessary to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; and obtain any pertinent cost or schedule information from Contractor.
- C. *Owner's Statement to Contractor Regarding Site Condition:* Owner shall issue a written statement to Contractor regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, and indicating whether any change in the Drawings or Specifications will be made.
- D. *Early Resumption of Work:* If at any time Owner determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Owner's review or issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then Owner may at its discretion instruct Contractor to resume such Work.
- E. *Possible Price and Times Adjustments*
 1. Contractor shall be entitled to an adjustment in Contract Times, and might be entitled to an adjustment in Contract Price (excluding any overhead or profit), each as reasonably determined by Owner, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Such condition falls within one or more of the categories described in Paragraph 5.04.A;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price shall be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid, or otherwise;
 - b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor; or
 - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment shall be set forth in a Change Order.
 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times no later than 14 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.
- F. *Human Remains; Artifacts.* If, in the course of the Work, Contractor encounters or recognizes the existence of human remains, burial markers, archaeological sites, historic sites or artifacts, or wetlands not indicated in the Contract Documents, Contractor shall immediately suspend any operations that would affect them and notify Owner. Upon receipt of such notice, Owner shall promptly take action to obtain any governmental authorization required to resume the operations. Contractor shall continue to suspend such operations until otherwise instructed by Owner in writing, but shall continue with all other operations that do not affect those remains or features. Any requests for adjustments in the Contract Price or Contract Times arising from the existence of such remains or features shall be governed by the foregoing provisions of this Paragraph 5.04.
- G. *Underground Facilities; Hazardous Environmental Conditions:* Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities or to Hazardous Environmental Conditions.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 2. complying with applicable state and local utility damage prevention Laws and Regulations;
 3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;

4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner in writing regarding such Underground Facility.
- C. *Owner's Review:* After receipt of such notice, Owner shall:
1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
 2. identify and communicate with the owner of the Underground Facility; and, if necessary, issue any preliminary instructions to Contractor regarding the Contractor's resumption of Work in connection with the Underground Facility in question; and
 3. obtain any pertinent schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility.
- During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* Owner shall issue a written statement to Contractor regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, and indicating whether any change in the Drawings or Specifications will be made.
- E. *Early Resumption of Work:* If at any time Owner determines that Work in connection with the Underground Facility may resume prior to completion of Owner's review or issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Owner may at its discretion instruct Contractor to resume such Work.
- F. *Possible Time Adjustments*
1. Contractor shall be entitled to an adjustment in the Contract Times, but no adjustment in Contract Price, as reasonably determined by Owner, to the extent any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's time required for performance of the Work; subject, however, to the following:
 - a. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
 - c. Contractor gave the notice required in Paragraph 5.05.B.

2. If Owner and Contractor agree regarding Contractor's entitlement to and the extent of any adjustment in the Contract Times, then any such adjustment shall be set forth in a Change Order.
3. Contractor may submit a Change Proposal regarding its entitlement to or the extent of any adjustment in the Contract Times, no later than 14 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions*

- A. *Reliance by Contractor on Technical Data Authorized:* Contractor may reasonably rely upon the accuracy of the Technical Data. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against any of the Owner Parties or Engineer, or any of their consultants or subcontractors, with respect to:
 1. the completeness of such reports and drawings for Contractor's purposes, including but not limited to any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by any of the Contractor Parties, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if any of the Contractor Parties creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area that could reasonably be affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner (and promptly thereafter confirm such notice in writing). Owner shall consider the necessity to retain a qualified expert to evaluate such condition or take corrective action, if any. Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If any of the Contractor Parties created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained all required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition

and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

- G. If Owner and Contractor cannot agree as to entitlement to, or on the amount or extent of, any adjustment in Contract Price or Contract Times as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 14 days after Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal and Owner, without waiting 14 days, may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08. In any event, Contractor shall not be entitled to increased overhead or profit in connection with any adjustment of the Contract Price under this Paragraph 5.06.
- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the full extent permitted by Laws and Regulations, Contractor shall defend (at Owner's option in its sole discretion), indemnify and hold harmless the Owner Parties and Engineer, and consultants and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove any Constituents of Concern brought to the Site by any of the Contractor Parties, to a Hazardous Environmental Condition created by any of the Contractor Parties, or failure by any of the Contractor Parties to fulfill a specific responsibility under the Contract with respect to a Hazardous Environmental Condition or any other environmental matters. Nothing in this Paragraph 5.06.I obligates Contractor to defend or indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

ARTICLE 6—BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds shall remain in effect until at least one year after Final Completion or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, or other provisions of the Contract.
- B. Contractor shall also furnish such other bonds (if any) as are required by other provisions of the Contract.
- C. All bonds shall be in the form included in the Bidding Documents or otherwise specified by Owner prior to signing the Contract, except as provided otherwise by Laws or Regulations, and shall be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies"

as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact shall be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
- E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements of this Paragraph 6.01, then Contractor shall promptly notify Owner in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements in this Paragraph 6.01.
- F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have performed or furnished labor, services, materials, or equipment used in the performance of the Work, Owner may provide a copy of the payment bond to such person or entity.
- H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have performed or furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance required of each of them, respectively, in this article and elsewhere in the Contract.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from and maintained with insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. All companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract.
- D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing

information and (2) any wording specific to a project or jurisdiction other than that applicable to this Contract.

- E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than that relevant to this Contract.
- F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.
- H. Contractor shall require:
 - 1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds the Owner Parties and Engineer (and any other individuals or entities identified in the Contract as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
 - 2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
- I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change or lapse in the required coverage.
- J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site shall end immediately, and Owner may impose a set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.
- K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its

interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.

- M. The insurance and insurance limits required under this Contract shall not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract, or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract shall contain a provision or endorsement that the coverage afforded shall not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days after receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured, additional insured, and the other party to the Contract.

6.03 *Contractor's Insurance*

- A. *Required Insurance:* Contractor shall purchase and maintain commercial general liability, automobile liability, worker's compensation and employer's liability, umbrella or excess liability, and other insurance pursuant to the specific requirements of the Contract.
- B. *General Provisions:* The policies of insurance required under this Contract shall:
 - 1. include at least the specific coverages required;
 - 2. be written for not less than the limits set forth in the Agreement, or those required by Laws or Regulations, whichever is greater;
 - 3. remain in effect at least until Final Completion, and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor is correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;
 - 4. apply with respect to the performance of the Work by any of the Contractor Parties; and
 - 5. include all necessary endorsements to support the stated requirements.
- C. *Additional Insureds:* The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, shall:
 - 1. include and list as additional insureds the Owner Parties and Engineer, and any individuals or entities identified as additional insureds in the Contract;
 - 2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
 - 3. afford primary coverage to these additional insureds for all claims covered thereby (including, as applicable, those arising from both ongoing and completed operations);
 - 4. not seek contribution from insurance maintained by the additional insured; and
 - 5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

- D. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against claims for:
1. damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees,
 2. damages insured by reasonably available personal injury liability coverage, and
 3. damages because of injury to or destruction of tangible property wherever located, including but not limited to loss of use resulting therefrom.
- E. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) Insurance Services Organization, Inc. (ISO) commercial general liability form (occurrence form) and include at least the following coverages and endorsements:
1. Products and completed operations coverage.
 - a. Such insurance shall be maintained for at least five years after Final Completion.
 - b. Contractor shall furnish Owner and each other additional insured (as identified in the Contract) evidence of continuation of such insurance at Final Completion and every required year thereafter.
 2. Blanket contractual liability coverage, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 3. Severability of interests and no insured-versus-insured or cross-liability exclusions.
 4. Underground, explosion, and collapse coverage.
 5. Personal injury coverage.
 6. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
- F. *Commercial General Liability—Excluded Content:* The commercial general liability insurance policy, including its coverages, endorsements, and incorporated provisions, shall not include any of the following:
1. Any modification of the standard definition of "insured contract" (except to delete the railroad protective liability exclusion if Contractor is required to indemnify a railroad or others with respect to Work within 50 feet of railroad property).
 2. Any exclusion for water intrusion or water damage.
 3. Any provisions resulting in the erosion of insurance limits by defense costs other than those already incorporated in ISO form CG 00 01.
 4. Any exclusion of coverage relating to earth subsidence or movement.
 5. Any exclusion for the insured's vicarious liability, strict liability, or statutory liability (other than worker's compensation).

- 6. Any limitation or exclusion based on the nature of Contractor's work.
- 7. Any professional liability exclusion broader in effect than the most recent edition of ISO form CG 22 79.
- G. *Commercial General Liability—Minimum Policy Limits:* Contractor's commercial general liability policy shall be written for not less than the limits set forth in the Agreement.
- H. *Automobile Liability:* Contractor shall purchase and maintain automobile liability insurance for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis, and shall be written for not less than the limits set forth in the Agreement.
- I. *Umbrella or Excess Liability:* Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in this Paragraph 6.03. The coverage afforded shall be at least as broad as that of each and every one of the underlying policies, and shall be written for not less than the limits set forth in the Agreement.
- J. *Waiver of Subrogation:* Contractor shall obtain a waiver of subrogation endorsement to each insurance policy required by this Paragraph 6.03 that waives the insurer's right to subrogate a claim against any of the Owner Parties. Contractor also shall require each of its Subcontractors with such insurance policies applicable to the Project to obtain similar endorsements to those policies in favor of the Owner Parties.
- K. *Professional Liability Coverage (if applicable):* If any provision of the Contract requires any of the Contractor Parties to provide professional services, including but not limited to any architectural, engineering, design, construction management, surveying or other professional service, Contractor shall obtain and require such Contractor Party to obtain Professional Liability (errors and omissions) coverage applicable to that party's portion of the Work, with limits reasonably acceptable to Owner.

6.04 *Builder's Risk and Other Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Contract, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as provided in the Contract or required by Laws and Regulations, whichever is less).
- B. *Property Insurance for Facilities of Owner Where Work Will Occur:* Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance shall be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and shall be maintained until the Work is complete, as set forth in Paragraph 15.06.
- C. *Property Insurance for Substantially Complete Facilities:* Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner shall obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06. Such

property insurance shall be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.

- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) shall provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item shall be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Contract), shall contain provisions to the effect that in the event of payment of any loss or damage the insurer shall have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.
 - 1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work, but only to the extent of insurance proceeds received for such losses and damages; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Contract as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused, but only to the extent of insurance proceeds received for such losses and damages.
 - 2. None of the waivers in this Paragraph 6.05 extends to the rights that any party making such waiver has to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion, or after Final Completion, shall contain provisions to the effect that in the event of payment of any loss or damage the insurer shall have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of

each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract signed prior to the loss, damage, or consequential loss.

1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies, but only to the extent of insurance proceeds received for such losses and damages.
- C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.
- D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Contract as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 shall be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured shall state its position regarding a claim for insured loss in writing within 14 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.01 *Contractor's Means and Methods of Construction*

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction

means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

7.02 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as necessary to perform the Work in accordance with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written approval of Owner, except under extraordinary circumstances.

7.03 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site.
- B. Contractor shall be fully responsible to Owner for all acts and omissions of the Contractor Parties, just as Contractor is responsible for Contractor's own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor shall not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent.
 - 1. As used in the Contract, "regular working hours" shall mean 7:00 AM to 6:00 PM.
 - 2. As used in Contract, "legal holiday" shall mean each of the following:

Holiday	Date
New Year's Day	January 1
Martin Luther King's Birthday	3rd Monday in January
Good Friday	Friday before Easter
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November

Friday after Thanksgiving	4th Friday in November
Christmas Day	December 25
Bonus Christmas Day	The first week day after Christmas Day, unless otherwise determined by Owner

7.04 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be new and of good quality, except as otherwise provided in the Contract Documents. All warranties and guarantees in or required by the Contract Documents shall expressly run to the benefit of Owner. If required by Owner, Contractor shall furnish satisfactory evidence (including but not limited to reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise provided in the Contract Documents.

7.05 *"Or Equals"*

- A. *Contractor's Request; Governing Criteria:* Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Owner authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the following circumstances:
 - 1. If Owner in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Owner may deem it an "or equal" item. For the purposes of this paragraph, a proposed item of equipment or material shall be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Owner determines that the proposed item:
 - 1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) has a proven record of performance and availability of responsive service; and

- 4) is not objectionable to Owner.
- b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Owner's Evaluation and Determination*: Owner shall be allowed a reasonable time to evaluate each "or-equal" request. Owner may require Contractor to furnish additional data about the proposed "or-equal" item. Owner shall be the sole judge of acceptability. No "or-equal" item shall be ordered, furnished, installed, or utilized until Owner's review is complete and Owner determines that the proposed item is an "or-equal," which shall be evidenced by an approved Shop Drawing or other written communication. Owner shall advise Contractor in writing of any negative determination.
- D. *Effect of Owner's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Owner's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract.
- E. *Treatment as a Substitution Request*: If Owner determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Owner consider the item a proposed substitute pursuant to Paragraph 7.06.

7.06 Substitutes

- A. *Contractor's Request; Governing Criteria*: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Owner authorize the use of other items of equipment or material under the following circumstances (to the extent possible such requests shall be made before commencement of related construction at the Site):
 1. Contractor shall submit sufficient information as provided in this Paragraph 7.06.A to allow Owner to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Owner shall not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
 2. The requirements for review by Owner shall be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Owner decides is appropriate under the circumstances.
 3. Contractor shall make written application to Owner for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
 - a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design;

- 2) be similar in substance to the item specified; and
 - 3) be suited for the same use as the item specified.
- b. shall state:
- 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
- c. shall identify:
- 1) all variations of the proposed substitute item from the item specified; and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
- d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Owner's Evaluation and Determination:* Owner shall be allowed a reasonable time to evaluate each substitute request. Owner may require Contractor to furnish additional data about the proposed substitute item. Owner shall be the sole judge of acceptability. No substitute shall be ordered, furnished, installed, or utilized until Owner's review is complete and Owner determines that the proposed item is an acceptable substitute. Owner's determination shall be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Owner shall advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Owner Cost:* Contractor shall bear Owner's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Owner approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of an engineer or other consultant for assistance in evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of an engineer or other consultant for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Owner Determination:* If Owner approves the substitution request, Contractor shall sign the proposed Change Order and proceed with the substitution. Owner's denial of a substitution request shall be final and binding, and may not be reversed through an appeal

under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

7.07 *Concerning Subcontractors and Suppliers*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work, subject to acceptance by Owner of such Subcontractors and Suppliers. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work shall not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.
- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner in writing the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 14 days after receipt of Contractor's written submission.
- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days after Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis, Contractor shall submit to Owner a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.

- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate written contractual agreement that specifically binds the Subcontractor or Supplier to the applicable provisions of the Contract for the benefit of Owner. Contractor shall furnish to Owner copies of all agreements with Subcontractors as requested by Owner.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer and Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 *Patent Fees and Royalties*

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

7.09 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental

charges and inspection fees necessary for the prosecution of the Work that are applicable at the time of the submission of Contractor's Bid. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

- B. If Owner acquires any permits from CSX, U.S. Army Corps of Engineers, Tennessee Department Environment and Conservation, Tennessee Department of Transportation, Williamson County, City of Franklin, or other utilities or agencies, the terms of the restrictions and conditions applicable to such permits shall be disclosed to Contractor, and Contractor shall perform the Work in accordance with all such restrictions and conditions.

7.10 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with Laws and Regulations.

7.11 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If any of the Contractor Parties performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall, to the full extent permitted by Laws and Regulations, defend (at Owner's option in its sole discretion), indemnify and hold harmless the Owner Parties and Engineer, and consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03.
- C. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 14 days after such written notice Contractor may submit a Change Proposal, or Owner may initiate a Claim at any time.

7.12 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, shall be available to Owner for reference. Upon Final Completion of the Work, Contractor shall deliver these record documents to Owner.

7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors or Suppliers of their responsibility for the safety of persons or property in the performance of their Work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who might be affected by the Work;
 - 2. all the Work, materials, and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including but not limited to trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by any of the Contractor Parties shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them is liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of any of the Contractor Parties).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall promptly notify Owner of any damage, injury, or loss to the persons or property of the type referred to in Paragraph 7.13.C.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows the Work might affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any, but such responsibility shall not affect Contractor's other obligations under this Paragraph 7.13. Any of Owner's safety programs that are applicable to the Work are identified or included in the Contract Documents. Contractor shall immediately notify Owner if Contractor thinks any of Owner's safety programs might not be safe or might conflict with Contractor's other obligations.
- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives shall comply while at the Site.

- I. Contractor's duties and responsibilities for safety and protection shall continue until all the Work is completed and Contractor has left the Site (except as otherwise expressly provided in the Contract Documents in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 *Hazard Communication Programs*

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

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent damage, injury, or loss. Contractor shall give Owner prompt written notice if Contractor believes that any significant changes in the Work or variations or deviations from the Contract Documents have been caused by an emergency, or are required as a result of Contractor's response to an emergency. If Owner determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Work Change Directive or Change Order shall be issued.

7.16 *Submittals*

A. *Shop Drawing and Sample Requirements*

1. Before submitting a Shop Drawing or Sample, Contractor shall:
 - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determine and verify:
 - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
 - 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto; and
 - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
2. Each Shop Drawing or Sample shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.

3. With each Shop Drawing or Sample, Contractor shall give Owner specific written notice of any variations that the Submittal has from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Owner for review and approval in accordance with the accepted Schedule of Submittals.
1. *Shop Drawings*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings shall be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Owner the services, materials, and equipment Contractor proposes to provide, and to enable Owner to review the information for the limited purposes required by Paragraph 7.16.C.
 2. *Samples*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Owner requires to enable Owner to review the Submittal for the limited purposes required by Paragraph 7.16.C.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Owner's review and approval of the pertinent submittal shall be at the sole expense and responsibility of Contractor.
- C. *Owner's Review of Shop Drawings and Samples*
1. Owner shall provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Owner's review and approval shall be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Owner's review and approval shall not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
 3. Owner's review and approval of a separate item as such shall not indicate approval of the assembly in which the item functions.
 4. Owner's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Owner has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Owner shall document

any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.

5. Owner's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Owner's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Owner's receipt, review, acceptance, or approval of a Shop Drawing or Sample shall result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

D. Resubmittal Procedures for Shop Drawings and Samples

1. Contractor shall make corrections required by Owner and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Owner on previous Submittals.
2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Contractor shall bear Owner's costs for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for an engineer's or other consultant's charges to Owner for assistance with such review. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for an engineer's or other consultant's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

E. Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
 - a. Contractor shall submit all such Submittals to Owner in accordance with the Schedule of Submittals and pursuant to the applicable provisions of the Contract Documents.
 - b. Owner shall provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals shall be deemed accepted.
 - c. Owner's review shall be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.

- d. If any such Submittal is not accepted, Contractor shall confer with Owner regarding the reason for the non-acceptance, and resubmit an acceptable document.
- 2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.
- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

7.17 Contractor's General Warranty and Guarantee

- A. Contractor warrants and guarantees to Owner that all Work will be of good quality, new (unless the Contract Documents permit otherwise) and in accordance with the Contract Documents, and will not be defective. Owner is entitled to rely on Contractor's warranty and guarantee.
- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:
 - 1. Owner shall give Contractor written notice of any defective Work within 60 days after Owner's discovery that such Work is defective; and
 - 2. Such notice shall be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim shall be brought within 30 days after the notice.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 - 1. abuse, or improper modification, maintenance, or operation, by persons other than any of the Contractor Parties; or
 - 2. normal wear and tear under normal usage.
- D. Contractor's obligations to perform and complete the Work and other obligations in accordance with the Contract Documents is absolute. No approval, consent, acceptance, or other action or exercise of rights by Owner, including but not limited to those set forth below in this Paragraph 7.17.D, shall constitute an acceptance of Work or performance by Contractor that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under the Contract Documents:
 - 1. Any of Owner's or Engineer's rights or obligations under Article 10, including but not limited to site visits or observations by Owner or Engineer;
 - 2. Payment by Owner of any progress or final payment;
 - 3. Use or occupancy of the Work or any part thereof by Owner;
 - 4. Any review and approval of a Submittal, Shop Drawing, Sample submittal or schedule;
 - 5. The issuance of a notice of acceptability;
 - 6. The end of the correction period established in Paragraph 15.08;
 - 7. Any inspection, test, or approval by others; or

8. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. To the full extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall defend (at Owner's option in its sole discretion), indemnify and hold harmless the Owner Parties and Engineer, and consultants and subcontractors of each and any of them, from and against all claims, actions, liabilities, losses, damages, costs, expenses and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of, relating to or resulting from the performance, or failure in performance, of the Work, provided that such claim, action, liability, loss, cost, expense, judgment or damage is attributable, in whole or in part to any act or omission of any of the Contractor Parties.
- B. In any and all claims against any of the Owner Parties or Engineer, or any of their consultants or subcontractors, by any employee (or the survivor or personal representative of such employee) of any of the Contractor Parties, the defense and indemnification obligations under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for any of the Contractor Parties under workers' compensation acts, disability benefit acts, or other employee benefit acts.

7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation shall specify the performance and design criteria that such services shall satisfy, and the Submittals that Contractor shall furnish to Owner with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional shall issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, then such Shop Drawing or other Submittal shall bear the written approval of Contractor's design professional when submitted by Contractor.
- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Owner's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals

furnished by Contractor pursuant to an Owner-delegated design shall be only for the following limited purposes:

1. Checking for conformance with the requirements of this Paragraph 7.19;
 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations, and Contractor shall promptly notify Owner if Contractor relies on or invokes this provision.

ARTICLE 8—OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the performance of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that is required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Owner and the others whose work will be affected.
- E. If the proper performance or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Owner in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper performance and results of Contractor's Work. Contractor's failure to so report shall constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and latent deficiencies in such other work.

- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following shall be provided to Contractor prior to the start of any such other work:
 - 1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. An itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. The extent of such authority and responsibilities.
- B. Unless otherwise provided in the Contract Documents, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an adjustment in the Contract Price or the Contract Times, each as reasonably determined by Owner. Contractor shall submit any Change Proposal seeking an adjustment in the Contract Price or the Contract Times under this paragraph within 14 days after the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
 - 1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.

2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.
- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, any of the Owner Parties, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) to the full extent permitted by Laws and Regulations, defend (at Owner's option in its sole discretion), indemnify and hold harmless the Owner Parties and Engineer, and consultants and subcontractors of each and any of them from and against all such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications directly to Contractor.
- B. Owner's Designated Representative identified in the Agreement (or the applicable Work Order), and Owner's City Administrator, Assistant City Administrator, City Engineer, and Department Directors, are the only individuals authorized to give approvals, consents, and otherwise act on Owner's behalf under the Contract Documents, including with respect to, but not limited to, Change Orders, Work Change Directives, Change Proposals, Field Orders, amendments, and other modifications to the Contract. From time to time, Owner may also designate in writing other representatives who are authorized to act on Owner's behalf.
- C. In any event, any modification to the Contract in the amount of \$25,000 or greater shall be effective only if signed by Owner's City Administrator, and all modifications to the Contract are subject to final written approval by the City of Franklin Board of Mayor and Aldermen.

9.02 *Replacement and Role of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.
- B. At Owner's sole discretion, Owner may utilize Engineer to assist with any of Owner's rights, duties, responsibilities, and obligations under the Contract during construction of the Work, and, with prior written notice to Contractor, may engage Engineer to carry out and administer such rights, duties and obligations on Owner's behalf.

9.03 *Furnish Data*

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

9.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in the Agreement (or the applicable Work Order).

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

A. Upon the reasonable request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10—ENGINEER'S AND OWNER'S STATUS DURING CONSTRUCTION

10.01 *Authority of Engineer*

- A. The duties and responsibilities and the limitations of authority of Engineer during construction, if any, are set forth in the Contract.

10.02 *Visits to Site*

- A. Owner and Engineer may make visits to the Site at intervals appropriate to the various stages of construction as Owner deems necessary in order to observe the progress that has been made and the quality of the various aspects of Contractor's Work. Based on information obtained during such visits and observations, Owner may determine, in general, if the Work is proceeding in accordance with the Contract Documents. Owner shall not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Owner's efforts shall be directed toward providing for Owner a degree of confidence that the completed Work will conform generally to the Contract Documents.

10.03 *Determinations for Unit Price Work*

- A. Owner shall determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.04 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Owner shall render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work.

10.05 *Limitations on Owner's Authority and Responsibilities*

- A. Neither Owner's authority or responsibility under this Article 10, nor any decision made by Owner in good faith either to exercise or not exercise such authority or responsibility, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Owner to any of the Contractor Parties.
- B. Owner shall not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner shall not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Owner shall not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Owner's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, shall only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with, the Contract Documents.

10.06 *Compliance with Safety Program*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs.

ARTICLE 11—CHANGES TO THE CONTRACT

11.01 *Amending and Supplementing the Contract*

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement shall be set forth in a Change Order.

11.02 *Change Orders*

- A. Owner and Contractor shall sign appropriate Change Orders covering:
 - 1. Changes in Contract Price or Contract Times agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off by submitting a Claim;
 - 3. Changes in the Work: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties; and
 - 4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. If Contractor refuses to sign a Change Order that is required to be signed under Paragraph 11.02.A, it shall be deemed to be of full force and effect, as if fully signed.

11.03 *Work Change Directives*

- A. A Work Change Directive shall not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.
- B. If Owner has issued a Work Change Directive and:
 - 1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 14 days after the completion of the Work set out in the Work Change Directive.

2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

11.04 *Field Orders*

- A. Owner may authorize changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes shall be accomplished by a Field Order and shall be binding on Contractor, which shall perform the Work involved promptly.
- B. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then, before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.05 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work.
- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents.
- C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.06 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

11.07 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price shall be determined as follows:
 1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which might include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or

3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
1. A mutually acceptable fixed fee; or
 2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent of the costs;
 - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be 5 percent of the costs;
 - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
 - d. No fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, or 13.01.C;
 - e. The amount of credit to be allowed by Contractor to Owner for any change that results in a net decrease in Cost of the Work shall be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
 - f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee shall be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

11.08 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.

- B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

11.09 *Change Proposals*

- A. *Purpose and Content:* Contractor shall submit a Change Proposal to Owner to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Owner concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief or changes under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal shall address only one issue, or a set of closely related issues.

- B. *Change Proposal Procedures*

1. *Submittal:* Contractor shall submit each Change Proposal to Owner within 14 days after the start of the event giving rise thereto; otherwise any request by Contractor for an adjustment in the Contract Times or Contract Price associated with such Change Proposal shall be deemed waived.
2. *Supporting Data:* The Contractor shall submit supporting data, including but not limited to the proposed change in Contract Price or Contract Time (if any), to Owner within 14 days after the submittal of the Change Proposal.
 - a. Change Proposals based on or related to delay, interruption, or interference shall comply with the provisions of Paragraphs 4.05.D and 4.05.E.
 - b. Change proposals related to a change of Contract Price shall include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

3. *Owner's Initial Review:* If in its discretion Owner concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Owner may request that Contractor submit such additional supporting data by a date specified by Owner, prior to Owner beginning its full review of the Change Proposal.
4. *Owner's Full Review and Action on the Change Proposal:* Upon receipt of Contractor's supporting data (including any additional data requested by Owner), Owner shall conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions shall be in writing, with a copy provided to Contractor. If Owner does not take action on the Change Proposal within 30 days, then the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
5. *Binding Decision:* Owner's decision is final and binding upon Contractor, unless Contractor timely appeals the decision by filing a Claim under Article 12.

C. *Post-Completion*: Contractor shall not submit any Change Proposals after Final Completion.

11.10 *Notification to Surety*

A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including but not limited to Contract Price or Contract Times), the giving of any such notice shall be Contractor's responsibility. The amount of each applicable bond shall be adjusted to reflect the effect of any such change.

ARTICLE 12—CLAIMS

12.01 *Claims*

A. *Claims Process*: Claims between Owner and Contractor, including but not limited to the following, are subject to the process set forth in this article:

1. Appeals by Contractor of Owner's decisions regarding Change Proposals;
2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
3. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Final Completion.

B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 14 days after the decision under appeal. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled. Claims by Contractor seeking an increase in the Contract Times or Contract Price that are not made within the time limits set forth in this Paragraph 12.01.B shall be deemed waived.

C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party.

D. *Mediation*

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and

decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs, unless otherwise agreed.
- E. *Partial Approval*: If Owner approves a Claim by Contractor in part and denies it in part, such action shall be final and binding unless within 30 days after such action Contractor invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days after the written notice of denial, then the Claim is deemed denied. A denial of the Claim shall be final and binding unless within 30 days after the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 Cost of the Work

- A. *Purposes for Determination of Cost of the Work*: As used in the Contract Documents, the term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined in this Paragraph 13.01. The provisions of this Paragraph 13.01 are used for two distinct purposes:
 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those commonly incurred in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs include salaries and wages plus

the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the costs included in this Paragraph 13.01.B.1 to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including but not limited to costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments to which the discounts apply, in which case the cash discounts shall accrue to Owner. Contractor may not keep any cash discounts unless it has provided Owner seven days' prior written notice thereof and the opportunity to deposit funds with Contractor with which to make payments to which the discounts apply. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they can be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which shall then determine which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
5. Other costs consisting of the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, that are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed that remain the property of Contractor.
 - 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration shall be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor shall not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.
 - c. *Construction Equipment Rental*
 - 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance

with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

- 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity shall be paid at a rate shown for such equipment in the equipment rental rate book specified in the Contract Documents or, in the absence of such a book, at rates no higher than standard rates paid in Williamson County, Tennessee. An hourly rate shall be computed by dividing the monthly rates by 176. These computed rates shall include all operating costs.
 - 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs shall be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, shall cease to accrue when the use thereof is no longer necessary for the changed Work.
- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is responsible, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of any of the Contractor Parties, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of any of the Contractor Parties. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. *Costs Excluded*: The term Cost of the Work does not include any of the following items:
1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office in connection with the Work, who are not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.

2. The cost of purchasing, renting, or furnishing small tools and hand tools.
3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
5. Costs due to the negligence or breach of contract of any of the Contractor Parties, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
6. Expenses incurred in preparing and advancing or defending Claims.
7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. Contractor's Fee

1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
 - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract shall be determined as set forth in the Agreement (or the applicable Work Order).
 - b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee shall be determined as follows:
 - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee shall automatically adjust as the Cost of the Work changes.
 - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions shall be determined in accordance with Paragraph 11.07.C.2.
2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work shall be determined in accordance with Paragraph 11.07.C.2.

- E. Documentation and Audit:** Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors shall establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner shall be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of five years after Final Completion. Pertinent Subcontractors shall afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

13.02 Allowances

- A.** It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for no more than such sums and by persons or entities acceptable to Owner.

- B. *Cash Allowances*: Contractor agrees that:
1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing shall be valid.
- C. *Owner's Contingency Allowance*: Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to Final Completion, an appropriate Change Order shall be issued to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price shall be correspondingly adjusted.
- E. Contractor shall not exceed any allowance amount set forth in the Contract Documents, and shall not be entitled to payment for any such excess amounts, without Owner's prior written approval.

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price shall be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement (or the applicable Work Order).
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work shall be based on actual quantities.
- C. Each unit price shall be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Owner shall determine the actual quantities and classifications of Unit Price Work performed by Contractor. Owner shall review with Contractor the Owner's preliminary determinations on such matters before rendering a written decision thereon. Owner's written decision thereon shall be final and binding upon Contractor, and the final adjustment of Contract Price shall be set forth in a Change Order, subject to the provisions of the following paragraph.
- E. *Adjustments in Unit Price*
1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
 - a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement (or the applicable Work Order); and
 - b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
 2. The adjustment in unit price shall account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such

other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.

3. Adjusted unit prices shall apply to all units of that item.

ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

14.01 Access to Work

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they can comply with such procedures and programs as applicable.

14.02 Tests, Inspections, and Approvals

- A. Contractor shall give Owner timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Owner the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 2. to attain Owner's acceptance of materials or equipment to be incorporated in the Work;
 3. by manufacturers of equipment furnished under the Contract Documents;
 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner.

- E. If the Contract Documents require the Work to be approved by Owner or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.

- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Owner, Contractor shall, if requested by Owner, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Owner timely notice of Contractor's intention to cover the same and Owner had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.
- B. *Owner's Authority*: Owner has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects*: Reasonably timely written notice of all defective Work of which Owner has actual knowledge shall be given to Contractor.
- D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Owner has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to Final Completion, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work, and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to Final Completion, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a set-off against payments due under Article 15. If the acceptance of defective Work occurs after Final Completion, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Owner has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

- B. If any Work is covered contrary to the written request of Owner, then Contractor shall, if requested by Owner, uncover such Work for Owner's observation, and then replace the covering, all at Contractor's expense.
- C. If Owner considers it necessary or advisable that covered Work be observed by Owner or inspected or tested by others, then Contractor, at Owner's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Owner requires, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 14 days after the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work shall conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of any of the Contractor Parties.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Owner to correct defective Work, or to remove and replace defective Work as required by Owner, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 shall be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages shall include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15—PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

Progress Payments

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 shall serve as the basis for progress payments and shall be incorporated into a form of Application for Payment acceptable to Owner. Progress payments for Unit Price Work shall be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work shall be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments*
 - 1. Not more often than once a month, Contractor shall submit to Owner for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
 - 2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which shall be satisfactory to Owner.
 - 3. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor, acceptable to Owner, stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
- C. *Review of Applications*
 - 1. Owner may, after receipt of each Application for Payment, including each resubmittal, return the Application to Contractor indicating in writing any reasons for refusing the Application in whole or in part. In such case, Contractor shall make the necessary corrections and resubmit the Application.
 - 2. Contractor's Application for Payment shall constitute a representation by Contractor to Owner that to the best of Contractor's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents; and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled.

3. By approving any Application for Payment Owner shall not be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work; or
 - b. there are not other matters or issues between the parties that might entitle Owner to withhold payment to Contractor.
4. Owner may reject, in whole or in part, an Application for Payment if necessary in Owner's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove, remediate, or otherwise address a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Owner has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor.

D. Payment Becomes Due

1. Thirty days after Owner's approval of the Application for Payment, the amount approved by Owner (subject to any Owner set-offs and Owner's rights to withhold payment under this Paragraph 15.01) shall become due, and when due shall be paid by Owner to Contractor.

E. Reductions in Payment by Owner

1. In addition to any reductions in payment by Owner under Paragraph 15.01.C, Owner is entitled to impose a set-off against payment, and withhold payment in whole or in part, based on any of the following:
 - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, or patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove, remediate, or otherwise address a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to Submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;

- f. The Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. The Contract Price has been reduced by Change Orders;
 - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination of the Contract for cause;
 - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or Final Completion of the Work;
 - k. Liens have been asserted or filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
 - l. Other items entitle Owner to impose a set-off against the amount requested.
2. If Owner withholds or imposes any set-off against payment, Owner shall give Contractor prompt written notice stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.D.1.
- F. If Owner reasonably believes it is necessary, Owner may, at its sole option, issue joint checks to Contractor and any Subcontractor or Supplier, or issue direct payments to any Subcontractor or Supplier, to whom Contractor has failed to make payment for Work properly performed or material or equipment suitably delivered.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment performed and furnished under the Contract shall pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, upon payment by Owner.

Substantial Completion

- A. When Contractor considers the entire Work ready for its intended use, Contractor shall notify Owner in writing that the entire Work is substantially complete and submit to Owner an initial draft of punch list items to be completed or corrected before Final Completion.
- B. Promptly after Contractor's notification, Owner and Contractor shall make an inspection of the Work to determine the status of completion. If Owner does not consider the Work substantially complete, Owner shall notify Contractor in writing, giving the reasons therefor.
- C. If Owner considers the Work substantially complete, Owner shall deliver to Contractor a revised punch list of items to be completed or corrected, reflecting Owner's changes, if any, to the initial draft punch list.

- D. At the time of Owner's receipt of Contractor's initial notification that Contractor believes the Work is substantially complete, Owner and Contractor also shall confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion, the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to Final Completion. In appropriate cases, Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth in Paragraph 15.01.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion, subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 Partial Use or Occupancy

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work that has specifically been identified in the Contract Documents, or that Owner and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor and Owner shall follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.
 - 2. At any time, Contractor may notify Owner in writing that Contractor considers any such part of the Work substantially complete and request Owner to follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner and Contractor shall make an inspection of that part of the Work to determine its status of completion. If Owner does not consider that part of the Work to be substantially complete, Owner shall notify Contractor in writing giving the reasons therefor. If Owner considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 shall apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 - 4. *No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.*

15.05 Final Inspection

- A. Upon written notice from Contractor that it considers the entire Work or an agreed portion thereof to be finally complete, Owner shall promptly make a final inspection with Contractor

and shall notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work and remedy such deficiencies.

15.06 *Final Completion and Payment*

A. Application for Payment

1. After Contractor has, in the opinion of Owner, satisfactorily completed all corrections and other Work identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in, and in the format required by, the Contract Documents, including but not limited to as-built drawings and specifications reflecting all changes to, and the final condition of, the Work as constructed;
 - b. consent of all sureties to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all duly pending Change Proposals and Claims; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2, if approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or that might in any way result in Liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers. In any event, to the full extent permitted by Laws and Regulations, Contractor shall defend (at Owner's option in its sole discretion), indemnify and hold harmless the Owner Parties from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any Liens and claims asserted or filed because of the Work.

- B. Owner's Review of Final Application for Payment:* If, on the basis of Owner's observation of the Work during construction and final inspection, and Owner's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Owner is satisfied that the Work has been finally completed and Contractor's other

obligations under the Contract have been fulfilled, final payment shall become due under Paragraph 15.06.D Such determination shall account for any set-offs against payment that are necessary in Owner's opinion to protect Owner from loss for the reasons stated in Paragraphs 15.01.C and 15.01.E with respect to progress payments. Otherwise, Owner shall return the Application for Payment to Contractor, indicating in writing the reasons for refusing to make final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. *Completion of Work*: The Work is finally complete (subject to surviving obligations) when final payment is due from Owner to Contractor as established under this Paragraph 15.06.
- D. *Final Payment Becomes Due*: Upon Final Completion, Owner shall set off against the amount for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under Paragraphs 15.01.C and 15.01.E with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days after Owner's receipt and approval of the final Application for Payment from Contractor.

15.07 *Waiver of Claims*

- A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim, appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.
- B. The acceptance of final payment by Contractor shall constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If, within one year after the date of **Substantial Completion** (or such longer period of time prescribed by the Contract Documents or the terms of any applicable warranty or guarantee required by or contained in the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such adjacent areas;
 - 2. correct such defective Work;
 - 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give Contractor reasonably timely notice of any such defect after Owner discovers it. If such notice is given after the end of the correction period, the notice shall be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect, Contractor does not promptly comply with the Owner's written instructions, or in an emergency where delay would cause serious risk of loss or

damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days after invoice from Owner shall be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim shall be brought within 30 days after the failure to pay.

- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work shall be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable warranty or statute of limitation or repose.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor. Such notice shall fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an extension of the Contract Times directly attributable to any such suspension, to the extent not caused by any of the Contractor Parties. Any Change Proposal seeking such adjustment shall be submitted no later than 14 days after the date fixed for resumption of Work.

16.02 *Contractor Default; Owner May Terminate the Contract for Cause*

- A. The occurrence of any one or more of the following events shall constitute a default by Contractor and entitle Owner to all rights and remedies available to it under the Contract and Laws and Regulations, including but not limited to Owner's termination of the Contract for cause:
 - 1. Contractor's failure to perform the Work in accordance with the Contract Documents (including but not limited to failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard or violation of Laws or Regulations; or
 - 4. Contractor's disregard of the authority of Owner or Engineer.

- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated;
 - 2. enforce the rights available to Owner under any applicable performance bond; and/or
 - 3. exercise or pursue any other rights and remedies available to Owner under the Contract and Laws and Regulations.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but that are stored elsewhere, and complete the Work as Owner deems expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor, within 7 days after receipt of notice of intent to terminate, begins to correct its failure to perform and diligently cures such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including but not limited to all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess shall be paid to Contractor. If the cost to complete the Work, including but not limited to such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- F. Where the Contract has been so terminated by Owner, the termination shall not affect any rights or remedies of Owner against Contractor then existing or that thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner shall not release Contractor from liability.

16.03 *Owner May Terminate the Contract for Convenience*

- A. Upon 7 days' written notice to Contractor, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work performed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and

3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

16.04 Contractor May Stop Work or Terminate the Contract

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Owner fails to act on any Application for Payment within 60 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner, and provided Owner does not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Owner has failed to act on an Application for Payment within 60 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner, stop the Work until payment is made of all such amounts due Contractor. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in the Contract directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17—FINAL RESOLUTION OF DISPUTES

17.01 Methods and Procedures

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this article:
 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and
 2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after Final Completion.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this article, Owner or Contractor may:
 1. Before bringing any action in court pertaining to any Claim, dispute or other matter in question arising out of or related to the Contract Documents or the breach thereof, the claimant shall first provide notice of the Claim, dispute or other matter in question to the other party to this Contract in writing and make a specific demand for settlement of said Claim, dispute or matter. If the other party fails to agree to an acceptable resolution to said Claim, dispute or matter, or offer a specific counter-proposal thereto within five days after the receipt of such notice, or the claimant fails to accept any counter-proposal from the other party within five days after receipt thereof, either party shall be free to submit the Claim, dispute or other matter to litigation in accordance with Paragraph 17.01.B.2.
 2. Any Claim, dispute, or other matter in question arising out of or related to the Contract or the Project shall be litigated in the Tennessee Judicial Circuit Court in and for Williamson, County, Tennessee, and the prevailing party to any such litigation shall be entitled to an award of all reasonable attorneys' and experts' fees, expenses and court

costs incurred by such prevailing party against the non-prevailing party, including in connection with any appeals.

ARTICLE 18—MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract requires the giving of written notice to Owner or Contractor, it shall be deemed to have been validly given only if delivered:
 - 1. in person, by a commercial courier service or otherwise, to the recipient's place of business;
 - 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
 - 3. by e-mail to the recipient, if also sent by one of the methods in Paragraph 18.01.A.1 or .2.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it shall be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or legal holiday, such day shall be omitted from the computation.

18.03 *Cumulative Remedies*

- A. Except as otherwise specifically provided in the Contract Documents, the duties and obligations imposed by the Contract Documents, and the rights and remedies available thereunder, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them that are otherwise imposed or available by Laws or Regulations, by warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph shall be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither the Owner Parties nor Engineer, nor any of their consultants or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all other obligations in the Contract that logically should survive Final Completion or earlier termination of the Contract, shall survive Final Completion or earlier termination of the Contract.

18.07 *Controlling Law*

- A. This Contract is to be governed by the laws of the State of Tennessee.

18.08 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract shall be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that becomes due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction is limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment shall release or discharge the assignor from any duty or responsibility under the Contract.

18.09 *Successors and Assigns*

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

18.10 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

Tabulation of Bids*

Purchasing Office Solicitation No.:	2021-010 (southeast basin pilot treatment facility and reclaimed water pump station at Redwing Meadows subdivision)		
Notice to Bidders published in the <i>Williamson Herald</i> on:	4/1/21		
Number of contractors that were notified of / that responded to this solicitation for bids:	6 / 3		
Date and time bids due and publicly opened:	5/13/21 2:00 PM		
Present at opening of bids:	Rosalyn Matthews, Scott Phipps, Scott Woodard and Michael Orr of Hazen & Sawyer; Levi Bouton, Greg Shirley and Carla Hill of J. Crumby Construction; Ryan Betts and Billy Waller of Crowder Construction Company; Steve Kirby of Haren Construction; Michelle Hatcher and Brian Goodwin of the City of Franklin Water Management Department; and Leslie Pewitt and Brian Wilcox of the City of Franklin Purchasing Office		
Target meeting of BOMA at which recommendation is scheduled to be considered:	6/22/21		
Bids received from:	Bid No.:	Does the bid include all required documents?	Total bid pricing based on specified quantities:
Crowder Construction Company 1111 Burma Drive Apex, NC 27539 William C. Christman, Jr., Vice President 919-367-2000 bjchristman@crowderusa.com	1 of 1	Yes	\$4,179,861.00
Haren Construction Company, Inc. 1715 Highway 411 North Etowah, TN 37331 Richard W. Kesler, Vice President 423-604-3028 rkesler@harenconstruction.com	1 of 1	Yes	\$3,882,000.00
J. Cumby Construction, Inc. 165 West Broad St. Cookeville, TN 38501 Justin Cumby, President 931-526-5158 justin@jcumbyconstruction.com	1 of 1	Yes	\$4,411,861.00

*Shaded bid is apparent lowest best bid

**Tabulation of Bid Line-Item Pricing for
Sol. No. 2021-010**

Item No.	Description	Qty.	Unit	Crowder Construction Company		Haren Construction Company, Inc.		J. Cumby Construction, Inc.	
				Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount
1	Mobilization, Insurance, and Bonds	1	LS	\$200,000.00	\$200,000.00	\$100,000.00	\$100,000.00	\$125,000.00	\$125,000.00
2	Site Preparation, Maintenance, and Restoration	1	LS	\$170,000.00	\$170,000.00	\$250,000.00	\$250,000.00	\$69,000.00	\$69,000.00
3	Project Closeout	1	LS	\$10,000.00	\$10,000.00	\$50,000.00	\$50,000.00	\$11,000.00	\$11,000.00
4	Redwing Reclaimed Water Pumping Station	1	LS	\$1,437,000.00	\$1,437,000.00	\$1,962,639.00	\$1,962,639.00	\$1,662,000.00	\$1,662,000.00
5	Pilot Building Construction	1	LS	\$2,161,000.00	\$2,161,000.00	\$1,300,000.00	\$1,300,000.00	\$2,348,000.00	\$2,348,000.00
6	Installation of Owner Furnished Equipment and Material	1	LS	\$25,000.00	\$25,000.00	\$50,000.00	\$50,000.00	\$25,000.00	\$25,000.00
7	Cash Allowance 1: Revere Control Systems	1	LS	\$6,861.00	\$6,861.00	\$6,861.00	\$6,861.00	\$6,861.00	\$6,861.00
8	Cash Allowance 2: Materials Testing	1	LS	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00
9	Contingency Allowance 1: Additional Work Where Directed by Owner Contingency	1	LS	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00
10	Undercut Excavation	500	CY	\$40.00	\$20,000.00	\$25.00	\$12,500.00	\$30.00	\$15,000.00
	Bid pricing, grand total:				\$4,179,861.00		\$3,882,000.00		\$4,411,861.00
								Grand total bid pricing listed above for this bidder does not match the amount (\$4,424,361.00) indicated on the Bid Form completed by bidder.	