

ORDINANCE NO. 23-1524

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SUNDT CONSTRUCTION, INC., FOR THE BONNIE BRAE PHASE 3 WIDENING AND RECONSTRUCTION PROJECT FOR THE CAPITAL PROJECTS DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (CSP 8094-1 – AWARDED TO SUNDT CONSTRUCTION, INC., IN THE NOT-TO-EXCEED AMOUNT OF \$40,318,845.47).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for the Bonnie Brae Phase 3 Widening and Reconstruction Project for the Capital Projects Department; and

WHEREAS, the City Manager, or a designated employee, has received, reviewed, and recommended that the herein described proposals are the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the competitive sealed proposals; and

WHEREAS, this procurement was undertaken as part of the City's governmental function; and

WHEREAS, the City Council has provided in the City Budget for the appropriation of funds to be used for the purchase of the materials, equipment, supplies, or services approved and accepted herein; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The items in the following numbered competitive sealed proposal for materials, equipment, supplies, or services shown in the "Competitive Sealed Proposals" on file in the office of the Purchasing Agent, are hereby accepted and approved as being the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the competitive sealed proposal.

<u>CSP NUMBER</u>	<u>CONTRACTOR</u>	<u>AMOUNT</u>
8094-1	Sundt Construction, Inc.	\$40,318,845.47

SECTION 2. That by the acceptance and approval of the above numbered items of the submitted proposals, the City accepts the offer of the persons submitting the proposals for such items and agrees to purchase the materials, equipment, supplies, or services in accordance with the terms, specifications, standards, quantities, and for the specified sums contained in the Proposal Invitations, Proposals, and related documents.

SECTION 3. That should the City and person submitting approved and accepted items wish

to enter into a formal written agreement as a result of the acceptance, approval, and awarding of the proposals, the City Manager, or their designated representative, is hereby authorized to execute the written contract which shall be attached hereto; provided that the written contract is in accordance with the terms, conditions, specifications, standards, quantities, and specified sums contained in the Proposal and related documents herein approved and accepted.

SECTION 4. The City Council of the City of Denton hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

SECTION 5. By the acceptance and approval of the above enumerated bids, the City Council hereby authorizes the expenditure of funds therefor in the amount and in accordance with the approved bids.

SECTION 6. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by Joe Holland and seconded by Vicki Byrd. This ordinance was passed and approved by the following vote [6 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Vicki Byrd, District 1:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Brian Beck, District 2:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Paul Meltzer, District 3:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Joe Holland, District 4:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Brandon Chase McGee, At Large Place 5:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Chris Watts, At Large Place 6:	<u> </u>	<u> </u>	<u>✓</u>	<u> </u>

PASSED AND APPROVED this the 15th day of August, 2023.


GERARD HUDSPETH, MAYOR

ATTEST:
JESUS SALAZAR, CITY SECRETARY

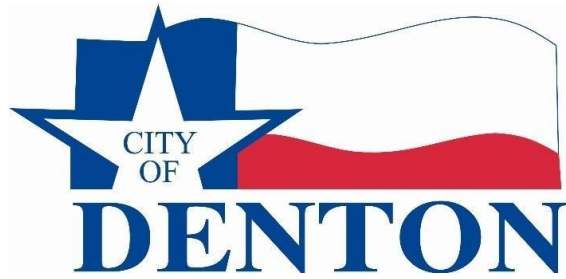
BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: _____

Digitally signed by Marcella
Lunn
DN: cn=Marcella Lunn, o,
ou=City of Denton,
email=marcella.lunn@cityofde
nton.com, c=US
Date: 2023.08.02 11:27:43
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DocuSign City Council Transmittal Coversheet

RFP	8094-1
File Name	Bonnie Brae Phase 3 Widening & Reconstruction
Purchasing Contact	Cori Power
City Council Target Date	AUGUST 15, 2023
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	23-1524

SECTION 00 52 44**AGREEMENT - CSP**

THIS AGREEMENT, authorized on 08/15/2023 is made by and between the City of Denton, a Texas home rule municipal corporation, acting by and through its duly authorized City Manager, ("City"), and **Sundt Construction, Inc.**, authorized to do business in Texas, acting by and through its duly authorized representative, ("Contractor").

City and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

Contractor shall complete all Work as specified or indicated in the Contract Documents for the Project identified herein.

Article 2. PROJECT

The project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Bonnie Brae Phase 3 Widening & Reconstruction

CSP 8094-1

Article 3. CONTRACT PRICE

City agrees to pay Contractor for performance of the Work in accordance with the Contract Documents an amount, in current funds, of Thirty-Eight Million Three Hundred Ninety-Eight Thousand Nine Hundred Dollars and 45/100 Cents (\$38,398,900.45). At the sole option of the City, five (5) percent contingency in the amount of One Million Nine Hundred Nineteen Thousand Nine Hundred Forty-Five Dollars and 02/100 Cents (\$1,919,945.02) may be used for a total not-to-exceed amount of Forty Million Three Hundred Eighteen Thousand Eight Hundred Forty-Five Dollars and 47/100 Cents (\$40,318,845.47).

Article 4. CONTRACT TIME**4.1 Time is of the essence.**

All time limits for Milestones, if any, Substantial Completion and Final Acceptance as stated in the Contract Documents are of the essence to this Contract.

4.2 Substantial Completion.

The Work will be Substantially Complete, as defined in the Supplementary Conditions, within 730 Days after the date when the Contract Time commences to run, which is the day indicated in the Notice to Proceed, plus any extension thereof allowed in accordance with Article 11 of the General Conditions.

4.3 Final Acceptance.

The Work will be complete for Final Acceptance within 912 Days after the date when the Contract Time commences to run, which is the day indicated in the Notice to Proceed, plus any extension thereof allowed in accordance with Article 11 of the General Conditions.

4.4 Liquidated Damages:

A. Contractor recognizes that *time is of the essence* to achieve Milestones, Substantial Completion, and Final Acceptance of the Work, and City will suffer financial and other losses if the Work is not completed within the times specified in the Contract Documents. The Contractor also recognizes the delays, expense and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by the City if the Work related to the Milestones, Substantial Completion, or Final Acceptance is not completed on time. Accordingly, instead of requiring any such proof, Contractor agrees that liquidated damages for delay (but not as a penalty):

1. *Substantial Completion*: If the Contractor neglects, refuses, or fails to achieve Substantial Completion, as defined in the Supplementary Conditions, within the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.2, Contractor shall pay City One Thousand Dollars and 00/100 Cents (\$1,000.00) for each day that expires after such time, until Substantial Completion is achieved.
2. *Final Acceptance*: If Contractor neglects, refuse, or fails to complete the Work within the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.3, for completion and readiness for Final Payment, Contractor shall pay City One Thousand Five Hundred Dollars and 00/100 Cents (\$1,500.00) for each day that expires after such time, until the date determined by City as stated in the City-issued Letter of Final Acceptance.

Article 5. CONTRACT DOCUMENTS

5.1 CONTENTS:

A. The Contract comprises the entire agreement between City and Contractor concerning the Work and consists of this Agreement and the items set forth below. The Contract Documents consist of all items below other than this Agreement:

1. Attachments to this Agreement:
 - a. Proposal Form
 - 1) Proposal Form
 - 2) Unit Price Proposal Form
 - 3) Vendor Compliance to State Law Non-Resident Offeror
 - 4) State and Federal documents (*project specific*)
 - b. Current Prevailing Wage Rate Table
 - c. Worker's Compensation Affidavit
 - d. General Conditions.
 - e. Supplementary Conditions.
2. The following located in File 8094-1 at:

<https://lfpubweb.cityofdenton.com/MaterialsManagement/Browse.aspx?id=19&dbid=0&repo=MaterialsManagement&cr=1>

 - a. Specifications described in the Table of Contents (Section 00 00 00) of the Project's Contract Documents.
 - b. Drawings.
 - c. Addenda.
 - d. Documentation submitted by Contractor prior to Notice of Award.

3. The following which shall be issued after the Effective Date of this Agreement and delivered to the City within ten (10) days of the Effective Date and before beginning Work:
 - a. Payment Bond
 - b. Performance Bond
 - c. Maintenance Bond
 - d. Power of Attorney for the Bonds
 - e. Form 1295 – Certificate of Interested Parties (email to City's Materials Management department)
 - f. Insurance Certificate
4. Specifications specifically made a part of the Contract Documents by attachment or, if not attached, as incorporated by reference and described in the Table of Contents of the Project's Contract Documents.
5. The following which may be delivered or issued after the Effective Date of the Agreement and, if issued, become an incorporated part of the Contract Documents:
 - a. Notice to Proceed.
 - b. Field Orders.
 - c. Change Orders.
 - d. Letter of Final Acceptance.

Article 6. INDEMNIFICATION

6.1 Contractor covenants and agrees to indemnify, hold harmless and defend, at its own EXPENSE, THE CITY, ITS OFFICERS, ELECTED AND APPOINTED OFFICIALS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS FOR PERSONAL INJURY OR DEATH, ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, RELATED TO OR IN CONNECTION WITH THE WORK AND SERVICES TO BE PERFORMED BY THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES OR INVITEES UNDER THIS CONTRACT. THIS INDEMNIFICATION PROVISION SHALL ONLY APPLY TO THE EXTENT THE ABOVE ARE CAUSED BY THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES OR INVITEES UNDER THIS CONTRACT. THIS INDEMNITY PROVISION IS INTENDED TO INCLUDE, WITHOUT LIMITATION, INDEMNITY FOR ANY AND ALL COSTS, EXPENSES AND LEGAL FEES INCURRED BY THE CITY IN DEFENDING AGAINST SUCH CLAIMS AND CAUSES OF ACTIONS.

6.2 CONTRACTOR COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND, AT ITS OWN EXPENSE, THE CITY, ITS OFFICERS, SERVANTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS FOR, LOSS OF, DAMAGE TO, OR DESTRUCTION OF, PROPERTY OF THE CITY OR OF A THIRD PARTY, ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, RELATED TO OR IN CONNECTION WITH THE WORK AND SERVICES TO BE PERFORMED BY THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES OR INVITEES UNDER THIS CONTRACT. THIS INDEMNIFICATION PROVISION SHALL ONLY APPLY TO THE EXTENT THE ABOVE ARE CAUSED BY THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES OR INVITEES UNDER THIS CONTRACT. THIS INDEMNITY PROVISION IS INTENDED TO INCLUDE, WITHOUT LIMITATION, INDEMNITY FOR ANY AND ALL COSTS, EXPENSES AND LEGAL FEES INCURRED BY THE CITY IN DEFENDING AGAINST SUCH CLAIMS AND CAUSES OF ACTIONS.

Article 7. MISCELLANEOUS

7.1 Capitalized Terms.

Unless otherwise stated herein, capitalized terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

7.2 Assignment of Contract.

This Agreement, including all of the Contract Documents may not be assigned by the Contractor without the advance express written consent of the City.

7.3 Successors and Assigns.

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

7.4 Severability.

Any provision or part of the Contract Documents held to be unconstitutional, void or unenforceable by a court of competent jurisdiction shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon City and Contractor.

7.5 Venue and Waiver of Sovereign Immunity.

This Agreement, including all of the Contract Documents is performable in the State of Texas. Venue shall be in the state district courts of Denton County, Texas. The City's sovereign immunity is waived only to the extent set forth and in accordance with the provisions of Subchapter I, Chapter 271 of the Texas Local Government Code or as otherwise specifically waived by law. The City does not waive its sovereign immunity to suit in federal court.

7.6 Authority to Sign.

Contractor hereby certifies that the person signing the Agreement on its behalf is the duly authorized signatory of the Contractor.

7.7 Prohibition on Contracts with Companies Boycotting Israel.

Contractor acknowledges that in accordance with Chapter 2270 of the Texas Government Code, the City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms “boycott Israel” and “company” shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. By signing this contract, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

7.8 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms “boycott energy company” and “company” shall have the meanings ascribed to those terms in Section 809.001 of the Texas Government Code. By signing this agreement, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the agreement. Failure to meet or maintain the requirements under this provision will be considered a material breach.

7.9 Prohibition on Contracts with Companies Boycotting Certain Firearm Entities and Firearm Trade Associations.

Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms “discriminate against a firearm entity or firearm trade association,” “firearm entity” and “firearm trade association” shall have the meanings ascribed to those terms in Chapter 2274 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

7.10 Prohibition on Contracts with Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization

Sections 2252 and 2270 of the Texas Government Code restricts CITY from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. ***By signing this agreement, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor, pursuant to Chapters 2252 and 2270, is not ineligible to enter into this agreement and will not become ineligible to receive payments under this agreement by doing business with Iran, Sudan, or a foreign terrorist organization.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

7.11 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

The City of Denton may terminate this Contract immediately without any further liability if the City of Denton determines, in its sole judgment, that this Contract meets the requirements under Chapter 2274, and Contractor is, or will be in the future, (i) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or other designated country (ii) directly controlled by the Government of China, Iran, North Korea, Russia, or other designated country, or (iii) is headquartered in China, Iran, North Korea, Russia, or other designated country.

7.12 Immigration Nationality Act.

Contractor shall verify the identity and employment eligibility of its employees who perform work under this Agreement, including completing the Employment Eligibility Verification Form (I-9). Upon request by City, Contractor shall provide City with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Agreement. Contractor shall adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any Contractor employee who is not legally eligible to perform such services. **CONTRACTOR SHALL INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY CONTRACTOR, CONTRACTOR'S EMPLOYEES, SUBCONTRACTORS, AGENTS, OR LICENSEES.** City, upon written notice to Contractor, shall have the right to immediately terminate this Agreement for violations of this provision by Contractor.

7.13 No Third-Party Beneficiaries.

This Agreement gives no rights or benefits to anyone other than the City and the Contractor and there are no third-party beneficiaries.

7.14 No Cause of Action Against Engineer.

Contractor, its subcontractors and equipment and materials suppliers on the Project or their sureties, shall maintain no direct action against the Engineer, its officers, employees, and subcontractors, for any claim arising out of, in connection with, or resulting from the engineering services performed. Only the City will be the beneficiary of any undertaking by the Engineer. The presence or duties of the Engineer's personnel at a construction site, whether as on-site representatives or otherwise, do not make the Engineer or its personnel in any way responsible to Contractor or any other entity for those duties that belong to the City, and do not relieve Contractor or any other entity of its obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for performing, coordinating and completing all portions of the Work in accordance with the Contract Documents and any health or safety precautions required by such Work. The Engineer and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, City and Contractor have each executed this Agreement to be effective as of the date subscribed by the City's City Manager or his designee ("Effective Date").

CITY OF DENTON

DocuSigned by:
BY: Sara Hensley
5236DB296270423...
TITLE: City Manager
DATE: 08/15/2023

CONTRACTOR
SUNDT CONSTRUCTION, INC.

DocuSigned by:
BY: Jeff Williamson
AB37F04872970402...
AUTHORIZED AGENT

THIS AGREEMENT HAS BEEN
BOTH REVIEWED AND APPROVED
as to financial and operational obligations and
business terms.

Jeff williamson

NAME

DocuSigned by:
Trevor Crain Trevor Crain
SIGNATURE PRINTED NAME
1048EAB010CF2...

President - Transportation

TITLE

Director of Capital Projects

TITLE

Engineering Services

DEPARTMENT

602 531-4255

PHONE NUMBER

jjwilliams@sundt.com

EMAIL ADDRESS

ATTEST:
JESUS SALAZAR, CITY SECRETARY

2023-1044386

TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

DocuSigned by:
Jesus Salazar
2437C77B897541D...

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
Marcella Lunn
4B070831B4AA438...

SECTION 00 41 01
PROPOSAL FORM - CSP

TO: *Cori Power*
c/o: Purchasing Division
901-B Texas Street
Denton, Texas 76209

FOR: **CSP 8094-1 – Bonnie Brae Phase 3 Widening & Reconstruction**

1 Enter into Agreement

The undersigned Offeror proposes and agrees, if this Proposal is accepted, to enter into an Agreement with City in the form included in the Proposal Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Unit Price Proposal and within the Contract Time indicated in this Proposal and in accordance with the other terms and conditions of the Contract Documents.

2 OFFEROR Acknowledgements and Certification

2.1 In submitting this Proposal, Offeror accepts all of the terms and conditions of the INVITATION TO OFFERORS and INSTRUCTIONS TO OFFERORS, including without limitation those dealing with the disposition of Offeror's Bond.

2.2 Offeror is aware of all costs to provide the required insurance, will do so pending contract award, and will provide a valid insurance certificate meeting all requirements within 14 days of notification of award.

2.3 Offeror certifies that this Proposal 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.

2.4 Offeror has not directly or indirectly induced or solicited any other Offeror to submit a false or sham Proposal.

2.5 Offeror has not solicited or induced any individual or entity to refrain from proposing.

2.6 Offeror has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph:

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 proposal process.

b. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the proposal process to the detriment of City (b) to establish proposal prices at artificial non-competitive levels, or (c) to deprive City of the benefits of free and open competition.

c. "collusive practice" means a scheme or arrangement between two or more Offerors, with or without the knowledge of City, a purpose of which is to establish proposal 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 proposal process or affect the execution of the Contract.

2.7 The Offeror acknowledges and agrees to comply with the requirements of City Ethics Ordinance No. 18-757.

3 Time of Completion

3.1 The Work will be Substantially Complete as defined in the Supplementary Conditions within **730 Days** after the date when the Contract Time commences to run, which is the day indicated in the Notice to Proceed, plus any extension thereof allowed in accordance with Article 11 of the General Conditions.

3.2 The Work will be complete for Final Acceptance within **912 Days** after the date when the Contract Time commences to run, which is the day indicated in the Notice to Proceed, plus any extension thereof allowed in accordance with Article 11 of the General Conditions.

3.3 Offeror accepts the provisions of the Agreement as to Liquidated Damages in the event of failure to obtain Milestones (if applicable), Substantial Completion, and Final Acceptance within the times specified in the Agreement.

4 Attached to this Proposal

4.1 The following documents are attached to and made a part of this Proposal:

- a. Section 00 35 14 – Conflict of Interest Affidavit – CSP
- b. Section 00 41 01 – This Proposal Form – CSP
- c. **Section 00 42 44 – Unit Price Proposal Form – CSP – Excel Electronic Copy (either included in the hard copy Proposal, or submitted via Ionwave)**
- d. Section 00 43 14 – Required Offeror's Bond – CSP, issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions.
- e. Section 00 43 38 – Proposed Subcontractors Form – CSP
- f. Section 00 43 39 – Vendor Compliance to State Law Non-Resident Offeror – CSP
- g. Section 00 45 14 – Safety Record Questionnaire – CSP
- h. Section 00 45 27 – Contractor Compliance with Workers Compensation Law – CSP
- i. Section 00 45 44 – Corporate Resolution of Authorized Signatories – CSP
- j. Any additional documents required by Paragraph 12 of Section 00 21 16 – Instructions to Offerors

5 Total Proposal Amount

5.1 Offeror will complete the Work in accordance with the Contract Documents for the following proposal amount. In the space provided below, please enter the total proposed amount for this project. This figure will be read publicly by the City at the proposal opening.

5.2 It is understood and agreed by the Offeror in signing this proposal that the total proposed amount entered below is subject to verification and/or modification by multiplying the unit prices for each pay item by the respective estimated quantities shown in this proposal and then totaling all of the extended amounts.

5.3 Evaluation of Alternate Proposal Items:

Base Proposal Amount: \$ 38,240,172.90

Alternate Proposal Amount (if any): \$ 158,727.55

Total Proposal Amount: \$ 38,398,900.45

6 Proposal Submittal

6.1 It is understood by Offeror that submission of the total proposal amount is only one of the factors for the City's evaluation process, and that any award of contract will be based on the complete evaluation of the Proposal and Offeror by City under the terms provided in the Instructions to Offerors or any validly issued amendments or addenda.

6.2 This Proposal is submitted on May 24, 2023 by the entity named below.

Respectfully submitted,

By:



(Signature)

Jeff Williamson

(Printed Name)

Title: Group President

Company: Sundt Construction, Inc.

Address: 8445 Freeport Pky, Suite 240

Irving, TX 75063

State of Incorporation: Arizona

Email: jjwilliams@sundt.com

Phone: 480.293.3263

Receipt is acknowledged of the following Addenda:	Initial
Addenda No. 1:	JW
Addenda No. 2:	JW
Addenda No. 3:	JW
Addenda No. 4:	JW
Addenda No. 5:	

END OF SECTION

SECTION 00 42 44 - UNIT PRICE PROPOSAL FORM - CSP

City of Denton Capital Projects

From ☐ Sundt Construction, Inc.

901-B Texas Street

8445 Freeport Parkway Suite 240

Denton, TX 76209

Irving, TX 75063

Attn: Cori Power/Purchasing Dept.

Jeff Williamson

PROJ.: **Bonnie Brae Phase 3 Widening & Reconstruction**

480.293.3263

CSP: **8094-1**jjwilliams@sundt.com**OFFEROR'S APPLICATION - UNIT PRICE PROPOSAL**

Item No.	SPEC	Description of work	BID QTY	UOM	Unit Price	Extended Price
SECTION I - PAVING						
1	01 70 00	MOBILIZATION	1	LS	\$ 3,750,000.00	\$ 3,750,000.00
2	01 58 13	CAPITAL IMPROVEMENT SIGNS	5	EA	\$ 500.00	\$ 2,500.00
3	01 57 13	EROSION CONTROL SWPPP	1	LS	\$ 225,000.00	\$ 225,000.00
4	32 93 00	TOPSOIL IMPORTED	14,510	SY	\$ 4.00	\$ 58,040.00
5	32 93 00	TOPSOIL NATIVE	28,566	SY	\$ 3.25	\$ 92,839.50
6	32 93 00	BLOCK SODDING	17,718	SY	\$ 6.50	\$ 115,167.00
7	TxDOT 164	HYDROMULCH WITH SEEDS	31,315	SY	\$ 2.00	\$ 62,630.00
8	31 10 00	PREPARING ROW	1	LS	\$ 1,312,000.00	\$ 1,312,000.00
9	31 23 16	EXCAVATION	42,773	CY	\$ 20.00	\$ 855,460.00
10	02 41 15	REMOVE EXISTING CONCRETE PAVING	5,759	SY	\$ 20.00	\$ 115,180.00
11	02 41 15	REMOVE EXISTING ASPHALT PAVING	19,834	SY	\$ 6.00	\$ 119,004.00
12	31 24 00	EMBANKMENT	57,093	CY	\$ 15.00	\$ 856,395.00
13	TxDOT 134.6001	BACKFILL	99	STA	\$ 600.00	\$ 59,400.00
14	32 11 29	12" LIME SLURRY (54LBS/SY)	1,975.9	TON	\$ 325.00	\$ 642,167.50
15	32 11 29	12" LIME TREATED SUBGRADE	73,180	SY	\$ 5.00	\$ 365,900.00
16	32 11 23	ROADBED BASE	195	SY	\$ 40.00	\$ 7,800.00
17	32 13 13	CONCRETE PAVEMENT 6-INCH	890	SY	\$ 95.00	\$ 84,550.00
18	32 13 13	CONCRETE PAVEMENT 8-INCH	3,224	SY	\$ 105.00	\$ 338,520.00
19	32 13 13	CONCRETE PAVEMENT 10-INCH	2,825	SY	\$ 115.00	\$ 324,875.00
20	32 13 13	CONCRETE PAVEMENT 11-INCH	59,272	SY	\$ 130.00	\$ 7,705,360.00
21	32 12 16	ASPHALT PAVEMENT, TY C, SAC-A, PG64-22, 2"	3,548	SY	\$ 30.00	\$ 106,440.00
22	32 12 16	ASPHALT PAVEMENT, TY B, PG64-22, 4"	145	SY	\$ 40.00	\$ 5,800.00
23	32 12 16	ASPHALT PAVEMENT, TY B, PG64-22, 7"	1,704	SY	\$ 70.00	\$ 119,280.00
24	32 12 16	ASPHALT PAVEMENT, TY B, PG64-22, 10"	1,699	SY	\$ 85.00	\$ 144,415.00
25	32 16 00	CONCRETE CURB & GUTTER 30-INCH	1,492	LF	\$ 45.00	\$ 67,140.00
26	32 16 00	CONCRETE RIBBON CURB	662	LF	\$ 50.00	\$ 33,100.00
27	32 16 00	MONOLITHIC CURB	29,790	LF	\$ 7.50	\$ 223,425.00
28	32 16 00	5-FOOT SIDEWALK 4-INCH	3,119	SY	\$ 105.00	\$ 327,495.00
29	32 16 00	10-FOOT SHARED USE PATH 5-INCH	12,946	SY	\$ 85.00	\$ 1,100,410.00
30	32 16 00	CURB RAMPS TYPE I	4	EA	\$ 4,250.00	\$ 17,000.00
31	32 16 00	CURB RAMPS TYPE II	22	EA	\$ 2,775.00	\$ 61,050.00
32	32 16 00	CURB RAMPS TYPE III	6	EA	\$ 4,950.00	\$ 29,700.00
33	32 13 13	CONCRETE STREET HEADER	349	LF	\$ 60.00	\$ 20,940.00
34	34 71 13	TRAFFIC CONTROL	30	MO	\$ 25,000.00	\$ 750,000.00
35	32 12 16	TEMPORARY ASPHALT PAVEMENT, TY B, PG64-22, 6"	4,910	SY	\$ 58.50	\$ 287,235.00
36	34 71 13	PORTABLE MESSAGE SIGNS (2 Count)	90	WK	\$ 280.00	\$ 25,200.00
37		OMITTED				
38		OMITTED				
39	32 32 00	RETAINING WALL (SPREAD FOOTING) W/TRAFFIC RAIL TY SSTR	546	SF	\$ 160.00	\$ 87,360.00
40		OMITTED				
41	32 13 16	4-INCH STAMPED & STAINED CONCRETE	2,755	SY	\$ 170.00	\$ 468,350.00
42	32 32 00	SIDEWALK RETAINING WALL	337	LF	\$ 160.00	\$ 53,920.00
43	TxDOT SS5112	REMOVABLE BOLLARD	2	EA	\$ 2,750.00	\$ 5,500.00
*44	TS-1	HAUL OFF UNSUITABLE MATERIAL	100	LOAD	\$ 105.00	\$ 10,500.00
*45	TS-2	HAUL OFF LANDFILL QUALITY MATERIAL	100	LOAD	\$ 520.00	\$ 52,000.00
**46	32 31 00	SMOOTH OR BARBED WIRE FENCE	1,427	LF	\$ 22.00	\$ 31,394.00
47	01 35 13	KCS RAILROAD COORDINATION & FLAGGING	1	LS	\$ 165,000.00	\$ 165,000.00
*UNSUITABLE MATERIALS ARE CLASSIFIED AS NON-TRASH MATERIALS - CANNOT BE COMPACTED TO PROPER DENSITIES.						
1 LOAD = 27 CY SEMI TRAILER.						
**DISCUSS WITH OWNER WHICH TYPE OF FENCING THEY PREFER						
END SECTION I - PAVING ITEMS					SUBTOTAL	\$21,285,442.00

Item No.	SPEC	Description of work	BID QTY	UOM	Unit Price	Extended Price
SECTION II - DRAINAGE IMPROVEMENTS						
48	31 23 16	Channel Excavation	1,947	CY	\$ 15.00	\$ 29,205.00
49	32 01 29	Concrete Pavement Repair	327	SY	\$ 300.00	\$ 98,100.00
50	33 42 11	18" RCP (CL III)	3,025	LF	\$ 120.00	\$ 363,000.00
51		OMITTED				
52	33 42 11	24" RCP (CL III)	1,401	LF	\$ 111.00	\$ 155,511.00
53	33 42 11	24" RCP (CL V)	130	LF	\$ 150.00	\$ 19,500.00
54		OMITTED				
55	33 42 11	30" RCP (CL III)	784	LF	\$ 160.00	\$ 125,440.00
56	33 42 11	30" RCP (CL V)	148	LF	\$ 190.00	\$ 28,120.00
57	33 42 11	36" RCP (CL III)	526	LF	\$ 260.00	\$ 136,760.00
58	33 42 11	42" RCP (CL III)	93	LF	\$ 280.00	\$ 26,040.00
59	33 42 11	48" RCP (CL III)	1,145	LF	\$ 325.00	\$ 372,125.00
60		OMITTED				
61	33 42 11	60" RCP (CL III)	851	LF	\$ 500.00	\$ 425,500.00
61A	33 01 30	Post CCTV Inspecton	9,775	LF	\$ 4.00	\$ 39,100.00
62	33 42 11	6' X 4' RCB	874	LF	\$ 650.00	\$ 568,100.00
63	33 42 11	8' X 5' RCB	690	LF	\$ 700.00	\$ 483,000.00
64	33 42 11	9' X 7' RCB	106	LF	\$ 1,200.00	\$ 127,200.00
65	33 42 11	6" HDPE Pipe	120	LF	\$ 120.00	\$ 14,400.00
66	33 42 33	10' Standard Curb Inlet	1	EA	\$ 8,500.00	\$ 8,500.00
67	33 42 33	10' Recessed Curb Inlet	39	EA	\$ 8,750.00	\$ 341,250.00
68	33 42 33	20' Channel Inlet	1	EA	\$ 25,000.00	\$ 25,000.00
69	33 42 33	3' x 3' "Y" Inlet	1	EA	\$ 7,000.00	\$ 7,000.00
70	33 42 33	4' x 4' "Y" Inlet	2	EA	\$ 8,500.00	\$ 17,000.00
71	33 42 33	Drop Inlet Type 1	1	EA	\$ 7,000.00	\$ 7,000.00
72	TxDOT 465	Type M Manhole	21	EA	\$ 13,000.00	\$ 273,000.00
73	33 42 30	Manhole Type 1-C	2	EA	\$ 9,000.00	\$ 18,000.00
74	33 42 30	Junction Box Type 1	2	EA	\$ 18,000.00	\$ 36,000.00
75	33 42 23	"PW" Wingwalls	4	EA	\$ 44,750.00	\$ 179,000.00
76		OMITTED				
77	33 05 05	Trench Safety	9,268	LF	\$ 3.00	\$ 27,804.00
78	33 05 05	Cement Stabilized Sand CSS)	77	CY	\$ 200.00	\$ 15,400.00
79	33 42 23	Connect RCP to Headwall	3	EA	\$ 2,500.00	\$ 7,500.00
80	31 37 00	5" Class "A" Concrete Rip-Rap	2,026	SY	\$ 86.00	\$ 174,236.00
81	31 37 00	12" Grouted Rock Rip-Rap	92	SY	\$ 275.00	\$ 25,300.00
82	31 37 00	18" Grouted Rock Rip-Rap	416	SY	\$ 300.00	\$ 124,800.00
83	33 42 23	18" Safety End Treatment Type II (4:1) (C)	1	EA	\$ 2,500.00	\$ 2,500.00
84	33 42 23	24" Safety End Treatment Type II (4:1) (C)	2	EA	\$ 3,000.00	\$ 6,000.00
85	33 42 23	30" Safety End Treatment Type II (4:1) (C)	1	EA	\$ 3,200.00	\$ 3,200.00
86		OMITTED				
87		OMITTED				
88	02 41 14	Remove Existing Inlet	1	EA	\$ 1,800.00	\$ 1,800.00
89	02 41 14	Remove Existing Headwall	5	EA	\$ 2,500.00	\$ 12,500.00
90	02 41 14	Remove Existing Storm Pipe	1,598	LF	\$ 45.00	\$ 71,910.00
91	02625	Flexamat	13,735	SF	\$ 8.75	\$ 120,181.25
92	02 41 14	Plug	1	LS	\$ 2,000.00	\$ 2,000.00
93	32 16 00	4" Concrete Flume	552	SY	\$ 150.00	\$ 82,800.00
94		OMITTED				
95	02 41 13	Remove Existing Traffic Rail from Headwall	66	LF	\$ 12.00	\$ 792.00
96	33 42 23	Reconstruct 3 foot Headwall on Exist. Box Culvert	66	LF	\$ 225.00	\$ 14,850.00
97	TxDOT 450	Type PR1 Handrail	342	LF	\$ 120.00	\$ 41,040.00
98	33 42 11	Box Culvert Transition	1	LS	\$ 55,000.00	\$ 55,000.00
END SECTION II - DRAINAGE ITEMS					SUBTOTAL	\$4,712,464.25
SECTION III - WATER IMPROVEMENTS						
99		OMITTED				
100	33 14 11	8" C-900 PVC DR-14, C-900 WATER LINE	47	LF	\$ 150.00	\$ 7,050.00
101	33 14 11	12" C-900 PVC DR-14,C-900 WATER LINE	4,664	LF	\$ 195.00	\$ 909,480.00
102		OMITTED				
103	33 14 40	STANDARD FIRE HYDRANT ASSEMBLY	13	EA	\$ 18,000.00	\$ 234,000.00
104	33 14 30	2" AIR RELEASE VALVE	4	EA	\$ 18,000.00	\$ 72,000.00
105	33 14 25	CONNECTION TO EXISTING WATER LINE WITH MAIN	8	EA	\$ 5,000.00	\$ 40,000.00
106		OMITTED				
107	33 14 20	8" GATE VALVE	1	EA	\$ 4,200.00	\$ 4,200.00
108	33 14 20	12" GATE VALVE	6	EA	\$ 6,600.00	\$ 39,600.00
109	33 14 17	WATER SERVICE	11	EA	\$ 5,400.00	\$ 59,400.00
110		OMITTED				

Item No.	SPEC	Description of work	BID QTY	UOM	Unit Price	Extended Price
111	33 14 20	8" X 8" TAPPING SLEEVE & VALVE (City to Furnish & Install)	1	EA	\$ 6,000.00	\$ 6,000.00
112	33 14 20	16" X 12" TAPPING SLEEVE & VALVE (City to Furnish & Install)	1	EA	\$ 9,600.00	\$ 9,600.00
113	33 14 17	RELOCATE WATER METER	20	EA	\$ 600.00	\$ 12,000.00
114	02 41 14	CUT AND PLUG EXISTING WATER LINE	1	LS	\$ 25,000.00	\$ 25,000.00
115	02 41 14	REMOVE & SALVAGE EXISTING GATE VALVE	4	EA	\$ 600.00	\$ 2,400.00
116	02 41 14	REMOVE & SALVAGE EXISTING FIRE HYDRANT	3	EA	\$ 1,200.00	\$ 3,600.00
117	33 05 07	18" STEEL CASING BY OPEN CUT 1/2" THICK	50	LF	\$ 575.00	\$ 28,750.00
118	33 05 05	TRENCH SAFETY	4,711	LF	\$ 6.00	\$ 28,266.00
119	32 01 17	TEMPORARY ASPHALT PAVEMENT REPAIR	503	SY	\$ 240.00	\$ 120,720.00
120	COG 504.5.2	ROCK CUSHION *	100	CY	\$ 50.00	\$ 5,000.00
121	33 14 17	RELOCATE WATER SERVICE AT KCS R.R.	1	EA	\$ 3,600.00	\$ 3,600.00
122	32 84 00	RELOCATE SPRINKLER SERVICE AT KCS R.R.	1	EA	\$ 4,200.00	\$ 4,200.00
*ROCK CUSHION IS FOR STABILITY UNDER CULVERT IF MATERIAL IS TOO SANDY FOR BEARING. NEEDS TO BE APPROVED BY CITY PRIOR TO PLACEMENT.						
END SECTION III - WATER ITEMS					SUBTOTAL	\$1,614,866.00
SECTION IV - WASTEWATER IMPROVEMENTS						
123	33 05 05	TRENCH SAFETY (DEPTH 0-10 FT)	3,131	LF	\$ 6.00	\$ 18,786.00
124	33 05 05	TRENCH SAFETY (DEPTH 10-20 FT)	3,976	LF	\$ 12.00	\$ 47,712.00
125	02 41 14	ABANDON EXIST. MANHOLE	3	EA	\$ 1,200.00	\$ 3,600.00
126	02 41 14	REMOVE EXIST. MANHOLE	13	EA	\$ 2,400.00	\$ 31,200.00
127	32 01 17	TEMPORARY ASPHALT PAVEMENT REPAIR	428	SY	\$ 240.00	\$ 102,720.00
128	33 31 14	8" SDR 26 SEWER LINE	835	LF	\$ 195.00	\$ 162,825.00
129	33 31 14	10" SDR 26 SEWER LINE	13	LF	\$ 225.00	\$ 2,925.00
129A	33 31 14	12" SDR 26 SEWER LINE	98	LF	\$ 255.00	\$ 24,990.00
130	33 31 14	21" SDR 26 SEWER LINE	1,653	LF	\$ 345.00	\$ 570,285.00
131	33 31 14	24" SDR 26 SEWER LINE	4,200	LF	\$ 405.00	\$ 1,701,000.00
131A	33 01 30	Post CCTV Inspecton	6,800	LF	\$ 2.50	\$ 17,000.00
132	33 31 16	4" SEWER SERVICE	9	EA	\$ 8,400.00	\$ 75,600.00
133	33 05 62	4' DIA. STANDARD MANHOLE (PRE-CAST)	3	EA	\$ 19,500.00	\$ 58,500.00
134	33 05 62	4' DIA. DROP MANHOLE (PRE-CAST)	3	EA	\$ 21,500.00	\$ 64,500.00
135	33 05 62	5' DIA. STANDARD MANHOLE (PRE-CAST)	19	EA	\$ 26,000.00	\$ 494,000.00
136	33 05 62	5' DIA. MANHOLE OVER EXIST. SEWER LINE (PRE-CAST)	2	EA	\$ 26,000.00	\$ 52,000.00
137	33 05 62	5' DIA. DROP MANHOLE (PRE-CAST)	2	EA	\$ 30,000.00	\$ 60,000.00
138		OMITTED				
139	33 05 07	36" STEEL CASING BY BORE (5/8" THICK)	110	LF	\$ 3,200.00	\$ 352,000.00
140	33 05 07	20" STEEL CASING BY OPEN CUT (1/2" THICK)	40	LF	\$ 630.00	\$ 25,200.00
141	33 05 62	4' EXTRA DEPTH MANHOLE	49	VF	\$ 420.00	\$ 20,580.00
142	33 05 62	5' EXTRA DEPTH MANHOLE	194	VF	\$ 660.00	\$ 128,040.00
143	02 41 14	PLUG	1	LS	\$ 36,000.00	\$ 36,000.00
END SECTION IV - WASTEWATER ITEMS					SUBTOTAL	\$4,049,463.00
SECTION V - SIGNALS (CITY)						
144	34 41 24	DRILL SHAFT 30 IN (TY A)	36	LF	\$ 462.00	\$ 16,632.00
145	34 41 24	DRILL SHAFT 36 IN (TY A OR TY B)	136	LF	\$ 600.00	\$ 81,600.00
146	34 41 24	DRILL SHAFT 48 IN (TY A)	88	LF	\$ 955.00	\$ 84,040.00
147	26 05 33	CONDUIT 2" PVC	689	LF	\$ 25.50	\$ 17,569.50
148	26 05 33	CONDUIT 3" PVC	2451	LF	\$ 28.50	\$ 69,853.50
149	26 05 33	CONDUIT 4" PVC	1126	LF	\$ 31.50	\$ 35,469.00
150	26 05 19	ELEC CONDR #4 POWER	1050	LF	\$ 3.60	\$ 3,780.00
151	26 05 19	ELEC CONDR #6 POWER	86	LF	\$ 2.55	\$ 219.30
152	26 05 35	GROUND BOXES TY CBX	18	EA	\$ 2,200.00	\$ 39,600.00
153	26 05 00	ELEC SERVICE	3	EA	\$ 9,000.00	\$ 27,000.00
154	34 41 50	ALUM SIGNS 18" X 18" LANE USE	14	EA	\$ 372.00	\$ 5,208.00
155	34 41 21	INST HWY TRAF SIG	3	EA	\$ 22,000.00	\$ 66,000.00
156	34 41 10	SIGNAL HEADS BK PLT - 3 SEC	26	EA	\$ 168.00	\$ 4,368.00
157	34 41 10	SIGNAL HEADS BK PLT - 4 SEC	8	EA	\$ 183.00	\$ 1,464.00
158	34 41 10	SIGNAL HEADS BK PLT - 5 SEC	1	EA	\$ 202.00	\$ 202.00
159	26 05 19	TRAF SIG CABLES 3C#12 ILLUM & ILSN	2818	LF	\$ 3.50	\$ 9,863.00
160	26 05 19	TRAF SIG CABLES 21C #14 AWG	7253	LF	\$ 7.50	\$ 54,397.50
161	26 05 19	TRAF SIG CABLES 7C #14 AWG	2338	LF	\$ 3.15	\$ 7,364.70
162	26 05 19	TRAF SIG CABLES 5C #14 AWG	2494	LF	\$ 2.50	\$ 6,235.00
163	26 05 19	TRAF SIG CABLES 3C #16 CCTV	246	LF	\$ 3.50	\$ 861.00
164	34 41 21	STEEL POLE STR ASSEMBLY 34' TY D	8	EA	\$ 14,000.00	\$ 112,000.00
165	34 41 21	STEEL POLE ASSEMBLY W/ 25' ARM, LUM & ILSN	3	EA	\$ 31,000.00	\$ 93,000.00
166	34 41 21	STEEL POLE ASSEMBLY W/ 40' ARM, LUM & ILSN	1	EA	\$ 34,000.00	\$ 34,000.00
167	34 41 21	STEEL POLE ASSEMBLY W/ 50' ARM, LUM & ILSN	2	EA	\$ 37,000.00	\$ 74,000.00
168	34 41 21	STEEL POLE ASSEMBLY W/ 55' ARM, LUM & ILSN	1	EA	\$ 38,000.00	\$ 38,000.00
169	34 41 21	STEEL POLE ASSEMBLY W/ 60' ARM, LUM & ILSN	1	EA	\$ 40,000.00	\$ 40,000.00
170	34 41 10	12" LED TRAF SIG LAMPS YEL ARROW (FLASHING)	4	EA	\$ 366.00	\$ 1,464.00

Item No.	SPEC	Description of work	BID QTY	UOM	Unit Price	Extended Price
171	34 41 11	PED PB POLE ASSEMBLY	15	EA	\$ 2,600.00	\$ 39,000.00
172	34 41 10	ACC PED SIG UNITS (APS PUSH BUT)	16	EA	\$ 920.00	\$ 14,720.00
173	34 41 26	ALUM SIGNS ILLUM STREET NAME (ILSN)	8	EA	\$ 4,300.00	\$ 34,400.00
174	34 41 27	CONTROLLER, CABINET, BASE, & FDN	3	EA	\$ 27,500.00	\$ 82,500.00
175		OMITTED				
176	34 41 10	12" LED TRAF SIG LAMPS GRN BALL	27	EA	\$ 370.00	\$ 9,990.00
177	34 41 10	12" LED TRAF SIG LAMPS YEL BALL	27	EA	\$ 370.00	\$ 9,990.00
178	34 41 10	12" LED TRAF SIG LAMPS RED BALL	37	EA	\$ 370.00	\$ 13,690.00
179	34 41 10	12" LED TRAF SIG LAMPS GRN ARROW	9	EA	\$ 370.00	\$ 3,330.00
180	34 41 10	12" LED TRAF SIG LAMPS YEL ARROW (STEDY)	9	EA	\$ 370.00	\$ 3,330.00
181	34 41 10	LED PED SIGNAL SIG SEC (COUNTDOWN)	16	EA	\$ 700.00	\$ 11,200.00
182	34 41 15	BI-DIR PREMPT (OPTICOM) UNIT	4	EA	\$ 4,200.00	\$ 16,800.00
183	34 41 15	EMER VEH DET (OPTICOM) CABLE	697	LF	\$ 3.10	\$ 2,160.70
184	34 41 29	COHYU 4260 SERIES IP CAMERA	2	EA	\$ 9,500.00	\$ 19,000.00
185	34 41 12	CCTV CABLE CAT 5E	190	LF	\$ 3.10	\$ 589.00
186	34 41 29	GRIDSMART CAMERA	2	EA	\$ 33,400.00	\$ 66,800.00
187	34 41 12	GRIDSMART CABLE CAT 5E	190	LF	\$ 3.10	\$ 589.00
188		OMITTED				
189	26 05 33	CONDUIT 2" RIGID METAL	40	LF	\$ 42.00	\$ 1,680.00
190	34 41 12	APS CABLE	1,907	LF	\$ 2.00	\$ 3,814.00
191	34 41 10	LANE USE SIGNAL 16" X 16" 2 IND	5	EA	\$ 6,500.00	\$ 32,500.00
192	34 41 10	LANE USE SIGNAL 16" X 16" 3 IND	17	EA	\$ 7,900.00	\$ 134,300.00
193	34 41 10	LANE USE SIGNAL 30" X 30" 1 IND	5	EA	\$ 6,700.00	\$ 33,500.00
194	34 41 10	LANE USE SIGNAL 30" X 30" 2 IND	4	EA	\$ 4,300.00	\$ 17,200.00
END SECTION V - SIGNALS (CITY) ITEMS					SUBTOTAL	\$1,475,273.20
SECTION VI - SIGNALS (TXDOT)						
195	416.6031	DRILL SHAFT (TRF SIG POLE) (30 IN)	11	LF	\$ 465.00	\$ 5,115.00
196	416.6032	DRILL SHAFT (TRF SIG POLE) (48 IN)	66	LF	\$ 955.00	\$ 63,030.00
197	618.6023	CONDUIT 2" PVC SCHD 40	174	LF	\$ 25.50	\$ 4,437.00
198	618.6029	CONDUIT 3" PVC SCHD 40	607	LF	\$ 28.50	\$ 17,299.50
199	618.6033	CONDUIT 4" PVC SCHD 40	601	LF	\$ 31.50	\$ 18,931.50
200		OMITTED				
201		OMITTED				
202		OMITTED				
203	620.6008	ELEC CONDR (#8) INSULATED	1,494	LF	\$ 2.15	\$ 3,212.10
204	620.6009	ELEC CONDR (#6) BARE	899	LF	\$ 2.55	\$ 2,292.45
205	620.6010	ELEC CONDR (#6) INSULATED	30	LF	\$ 2.55	\$ 76.50
206	621.6012	TRAY CABLE (3 CONDR)(14 AWG)	664	LF	\$ 3.35	\$ 2,224.40
207	624.6008	GROUND BOXES TY C (162911) W/ APRON	5	EA	\$ 2,200.00	\$ 11,000.00
208	628.6115	ELEC SERVICE TY D 120/240 060 (NS)AL(E)PS(U)	1	EA	\$ 9,000.00	\$ 9,000.00
209	680.6005	INST HWY TRAF SIG (DPT SUP CNT & CAB)(ISO)	1	EA	\$ 23,000.00	\$ 23,000.00
210	681.6001	TEMP TRAF SIGNALS	1	EA	\$ 120,000.00	\$ 120,000.00
211	682.6001	VEH SIG SEC (12") LED (GRN)	9	EA	\$ 370.00	\$ 3,330.00
212	682.6002	VEH SIG SEC (12") LED (GRN ARW)	2	EA	\$ 370.00	\$ 740.00
213	682.6003	VEH SIG SEC (12") LED (YEL)	9	EA	\$ 370.00	\$ 3,330.00
214	682.6004	VEH SIG SEC (12") LED (YEL ARW)	4	EA	\$ 370.00	\$ 1,480.00
215	682.6005	VEH SIG SEC (12") LED (RED)	9	EA	\$ 370.00	\$ 3,330.00
216	682.6006	VEH SIG SEC (12") LED (RED ARW)	4	EA	\$ 370.00	\$ 1,480.00
217	682.6018	PED SIG SEC (LED) (COUNTDOWN)	6	EA	\$ 700.00	\$ 4,200.00
218	682.6029	BACK PLATE (12 IN)(3 SEC) ALUM	9	EA	\$ 168.00	\$ 1,512.00
219	682.6031	BACK PLATE (12 IN)(5 SEC) ALUM	2	EA	\$ 202.00	\$ 404.00
220	684.6033	TRAF SIG CABLES (TY A) (14 AWG) (7 CONDR)	664	LF	\$ 3.15	\$ 2,091.60
221		OMITTED				
222	684.6046	TRAF SIG CABLES (TY A) (14 AWG) (20 CONDR)	681	LF	\$ 7.40	\$ 5,039.40
223	684.6079	TRAF SIG CABLES (TY C) (12 AWG) (2 CONDR)	952	LF	\$ 2.00	\$ 1,904.00
224	686.6006	INS TRF SIG PL AM(S) STR (TY A)	1	EA	\$ 13,500.00	\$ 13,500.00
225	686.6060	INS TRF SIG PL AM (S) 1 ARM (55') LUM & ILSN	1	EA	\$ 38,000.00	\$ 38,000.00
226	686.6064	INS TRF SIG PL AM (S) 1 ARM (60') LUM & ILSN	1	EA	\$ 40,000.00	\$ 40,000.00
227	686.6068	INS TRF SIG PL AM (S) 1 ARM (65') LUM & ILSN	1	EA	\$ 42,000.00	\$ 42,000.00
228	687.6002	PED PB POLE ASMBLY	6	EA	\$ 2,600.00	\$ 15,600.00
229	6186.6002	ITS GND BOX (PCAST) TY 1 (243636) W/APRON	1	EA	\$ 4,600.00	\$ 4,600.00
230	6058.6002	BBU SYSTEM (EXTERNAL BATT CABINET)	1	EA	\$ 9,300.00	\$ 9,300.00
231	6292.6003	RVDS (PRESENCE & ADVANCE DET)	6	EA	\$ 10,000.00	\$ 60,000.00
END SECTION VI - SIGNALS (TXDOT) ITEMS					SUBTOTAL	\$531,459.45

Item No.	SPEC	Description of work	BID QTY	UOM	Unit Price	Extended Price
SECTION VII - STRIPING						
232	32 17 23	TYPE IB DOUBLE LINE	3,126	LF	\$ 2.60	\$ 8,127.60
233	32 17 23	TYPE IB EDGELINE	493	LF	\$ 1.25	\$ 616.25
234	32 17 23	TYPE IIIA BARRIER LINE	2,627	LF	\$ 3.20	\$ 8,406.40
235	32 17 23	TYPE IA BROKEN LINE *	2,980	LF	\$ 1.35	\$ 4,023.00
236	32 17 23	TYPE VA STOP BAR	488	LF	\$ 12.00	\$ 5,856.00
237	32 17 23	TYPE IA BROKEN LINE C/R RPM	287	EA	\$ 5.00	\$ 1,435.00
238	32 17 23	TYPE IIIA BARRIER LINE C/R RPM	197	EA	\$ 5.00	\$ 985.00
239	32 17 23	TYPE IB DOUBLE LINE A/A RPM	164	EA	\$ 5.00	\$ 820.00
240	32 17 23	YIELD LINE	40	EA	\$ 50.00	\$ 2,000.00
241	32 17 23	TYPE IB DOUBLE BROKEN LINE *	1,760	LF	\$ 2.50	\$ 4,400.00
242	32 17 23	TYPE IA EDGELINE	663	LF	\$ 1.25	\$ 828.75
243	32 17 23	TYPE IB DOTTED LINE	10,303	LF	\$ 1.35	\$ 13,909.05
244	32 17 23	TYPE VB DIAGONAL MARKING	65	LF	\$ 12.00	\$ 780.00
245	32 17 23	WORD, WHITE, PER LETTER	16	EA	\$ 160.00	\$ 2,560.00
246	32 17 23	SYMBOL, WHITE, ARROW	2	EA	\$ 160.00	\$ 320.00
247	32 17 23	SYMBOL, WHITE, RR CROSSING	4	EA	\$ 800.00	\$ 3,200.00
248	666-2001	REFL PAV MRK TY I (W) 4" (BRK)	804	LF	\$ 1.35	\$ 1,085.40
249	666-2005	REFL PAV MRK TY I (W) 4" (DOT)	959	LF	\$ 3.20	\$ 3,068.80
250	666-2010	REFL PAV MRK TY I (W) 4" (SLD)	1,154	LF	\$ 1.25	\$ 1,442.50
251	666-2034	REFL PAV MRK TY I (W) 8" (SLD)	877	LF	\$ 2.70	\$ 2,367.90
252	666-2046	REFL PAV MRK TY I (W) 24" (SLD)	105	LF	\$ 12.00	\$ 1,260.00
253	666-2052	REFL PAV MRK TY I (W) (ARROW)	5	EA	\$ 175.00	\$ 875.00
254	666-2067	REFL PAV MRK TY I (W) (DBL ARROW)	1	EA	\$ 200.00	\$ 200.00
255	666-2094	REFL PAV MRK TY I (W) (WORD)	5	EA	\$ 175.00	\$ 875.00
256	666-2109	REFL PAV MRK TY I (Y) (SLD)	1,336	LF	\$ 1.25	\$ 1,670.00
257	666-XXXX	REFL PAV MRK TY I (Y) (DBL SLD)	84	LF	\$ 2.50	\$ 210.00
258	672-6007	REFL PAV MRKR TY I-C	66	EA	\$ 5.00	\$ 330.00
259	672-6009	REFL PAV MRKR TY II-A-A	4	EA	\$ 5.00	\$ 20.00
260	672-6010	REFL PAV MRKR TY II-C-R	20	EA	\$ 5.00	\$ 100.00
261		OMITTED				
262	34 41 50	SMALL SIGN ASSEMBLY	96	EA	\$ 675.00	\$ 64,800.00
263	34 41 50	LARGE SIGN ASSEMBLY	4	EA	\$ 1,800.00	\$ 7,200.00
264	34 41 50	RELOCATE SMALL SIGN ASSEMBLY	6	EA	\$ 750.00	\$ 4,500.00
265		OMITTED				
*SUMMARY QUANTITY FOR LINES ARE ACTUAL LENGTHS AS LAID ON THE GROUND						
END SECTION VII - STRIPING ITEMS						SUBTOTAL \$148,271.65
SECTION VIII - STREET LIGHTS						
266	26 05 35	PULL BOX	29	EA.	\$ 1,100.00	\$ 31,900.00
267	26 56 00	35' WHITE CONCRETE STREET LIGHT POLE	54	EA	\$ 3,000.00	\$ 162,000.00
268	26 05 33	2" P.V.C. CONDUIT	10,554	LF	\$ 25.00	\$ 263,850.00
269	26 56 00	160W LED FIXTURE	54	EA	\$ 900.00	\$ 48,600.00
270	26 05 13	#2 DX WIRE	989	LF	\$ 5.25	\$ 5,192.25
271	26 05 13	#4 DX WIRE	1,091	LF	\$ 5.75	\$ 6,273.25
272	26 05 13	#6 DX WIRE	8,909	LF	\$ 4.50	\$ 40,090.50
273	26 05 00	ELECTRIC SERVICE	3	EA	\$ 10,000.00	\$ 30,000.00
274	26 05 35	12"X12" ELECTRIC BOX	54	EA	\$ 1,100.00	\$ 59,400.00
END SECTION VIII - STREET LIGHTS ITEMS						SUBTOTAL \$647,306.00
SECTION IX - CONDUIT						
275	26 05 35	GROUND BOX	64	EA	\$ 3,000.00	\$ 192,000.00
276	26 05 33	4" PVC 90° SWOOPING BEND, RISER & PLUG	208	EA	\$ 360.00	\$ 74,880.00
277	26 05 33	4" PVC 90° SWOOPING BEND	76	EA	\$ 340.00	\$ 25,840.00
278	26 05 33	4" PVC	7,659	LF	\$ 34.00	\$ 260,406.00
END SECTION IX - CONDUIT ITEMS						SUBTOTAL \$553,126.00
SECTION X - UNT DUCT BANK IMPROVEMENTS (SHEETS DB1 - DB29)						
279	02 41 15	SIDEWALK REMOVAL	189	SF	\$ 7.00	\$ 1,323.00
280	32 01 17	ASPHALT PAVEMENT REPAIR (TEMPORARY)	150	SY	\$ 203.00	\$ 30,450.00
281	32 01 29	CONCRETE PAVEMENT REPAIR (PERMANENT)	267	SY	\$ 375.00	\$ 100,125.00
282	33 01 29	CONCRETE PAVEMENT REPAIR (TEMPORARY)	51	SY	\$ 356.00	\$ 18,156.00
283	32 16 00	CONCRETE SIDEWALK	189	SF	\$ 22.25	\$ 4,205.25
284	32 01 29	CONCRETE SPEED BUMP REPAIR	3	EA	\$ 350.00	\$ 1,050.00
285	32 32 00	PAVE STONE RETAINING WALL REPAIR	8	LF	\$ 385.00	\$ 3,080.00
286	32 93 00	4" TOPSOIL	490	CY	\$ 43.00	\$ 21,070.00
287	32 93 00	BLOCK SODDING	4,407	SY	\$ 6.30	\$ 27,764.10

Item No.	SPEC	Description of work	BID QTY	UOM	Unit Price	Extended Price
288	33 05 05	TRENCH SAFETY PROTECTION	5,877	LF	\$ 5.00	\$ 29,385.00
289	33 01 50	ADJUST SSCO TO GRADE	1	EA	\$ 350.00	\$ 350.00
290	51 05 05	DEMO ELECTRIC SWITCHGEAR	2	EA	\$ 6,000.00	\$ 12,000.00
291	51 05 05	DEMO ELECTRIC PULL BOX	2	EA	\$ 1,000.00	\$ 2,000.00
292	51 05 05	DEMO DATA PULL BOX	2	EA	\$ 1,000.00	\$ 2,000.00
293	51 05 05	DEMO ELECTRICAL DUCT BANK	2,800	LF	\$ 40.00	\$ 112,000.00
294	51 05 05	DEMO DATA DUCT BANK	2,900	LF	\$ 40.00	\$ 116,000.00
295	51 05 05	LOCATING AND EXCAVATING EXISTING DUCT BANK	10	EA	\$ 750.00	\$ 7,500.00
296	51 05 13	500 KCMIL MV-105, EPR, 15KV	8,352	LF	\$ 39.00	\$ 325,728.00
297	51 05 13	#2 MV-105, EPR, 15KV	2,440	LF	\$ 11.00	\$ 26,840.00
298	51 05 26	#2 BARE COPPER	100	LF	\$ 140.00	\$ 14,000.00
299	51 05 26	#4/0 BARE COPPER	100	LF	\$ 16.00	\$ 1,600.00
300	51 13 29	SWITCHGEAR PME-9	2	EA	\$ 70,000.00	\$ 140,000.00
301	51 05 13	TERMINATIONS AT TRANSFORMERS	18	EA	\$ 700.00	\$ 12,600.00
302	51 05 43	ELECTRICAL MANHOLE	7	EA	\$ 38,000.00	\$ 266,000.00
303	51 05 43	ELECTRICAL DUCT BANK - PRIMARY 4 CELL	167	LF	\$ 325.00	\$ 54,275.00
304	51 05 43	ELECTRICAL DUCT BANK - PRIMARY 2 CELL	2,450	LF	\$ 300.00	\$ 735,000.00
305	51 05 43	ELECTRICAL DUCT BANK (TO TRANSFORMERS)	185	LF	\$ 300.00	\$ 55,500.00
306	51 05 43	DATA PULLBOX	9	EA	\$ 20,000.00	\$ 180,000.00
307	51 05 43	DATA DUCTBANK - TELECOM 4 CELL	3,075	LF	\$ 300.00	\$ 922,500.00
END SECTION X - UNT DUCT BANK IMPROVEMENTS					SUBTOTAL	\$3,222,501.35
END BASE PROPOSAL ITEMS						
PROJECT BASE PROPOSAL AMOUNT (SECTIONS I through X):						\$38,240,172.90

ALTERNATE 1 - ALIGNMENT 5 (EMPTY UNT DUCT BANK - SHEETS DB13 & DB24)						
A1- 1	32 01 17	ASPHALT PAVEMENT REPAIR (TEMPORARY)	68	SY	\$ 203.00	\$ 13,804.00
A1- 2	32 93 00	4" TOPSOIL	33	CY	\$ 51.00	\$ 1,683.00
A1- 3	32 93 00	BLOCK SOD	293	SY	\$ 6.35	\$ 1,860.55
A1- 4	33 05 05	TRENCH SAFETY PROTECTION	380	LF	\$ 1.00	\$ 380.00
A1- 5	51 05 43	ELECTRICAL MANHOLE	1	EA	\$ 35,000.00	\$ 35,000.00
A1- 6	51 05 43	ELECTRICAL DUCTBANK - PRIMARY 2 CELL	200	LF	\$ 225.00	\$ 45,000.00
A1- 7	51 05 43	DATA PULLBOX	1	EA	\$ 16,000.00	\$ 16,000.00
A1- 8	51 05 43	DATA DUCTBANK - TELECOM 4 CELL	180	LF	\$ 250.00	\$ 45,000.00
END ALTERNATE 1 - UNT EMPTY DUCT BANK IMPROVEMENTS					SUBTOTAL	\$158,727.55
END ALTERNATE PROPOSAL ITEMS						
ALTERNATE 1-ALIGNMENT 5 PROPOSAL AMOUNT :						\$158,727.55
TOTAL PROJECT PROPOSAL AMOUNT (SECTIONS I through X + ALTERNATE 1):						
						\$38,398,900.45

Bonnie Brae Phase 3 Widening & Reconstruction
CSP 8094-1

Sundt Construction, Inc.

SECTION 00 43 39**VENDOR COMPLIANCE TO STATE LAW NON-RESIDENT OFFEROR - CSP**

Texas Government Code Chapter 2252 was adopted for the award of contracts to nonresident offerors. This law provides that, in order to be awarded a best value contract where the offeror also offered the lowest proposal price, nonresident offerors (out-of-state contractors whose corporate offices or principal place of business are outside the State of Texas) propose on projects for construction, improvements, supplies or services in Texas at an amount lower than the lowest Texas resident offeror by the same amount that a Texas resident offeror would be required to underbid a nonresident offeror in order to obtain a comparable contract in the State which the nonresident's principal place of business is located.

The appropriate blanks in Section A must be filled out by all nonresident offerors in order for your proposal to meet specifications. The failure of nonresident offerors to do so will automatically disqualify that offeror. Resident offerors must check the box in Section B.

A. Nonresident offerors in the State of _____, our principal place of business, are required to be _____ percent lower than resident offerors by State Law. A copy of the statute is attached.

Nonresident offerors in the State of Arizona, our principal place of business, are not required to underbid resident Offerors.

B. The principal place of business of our company or our parent company or majority owner is in the State of Texas. ☐

OFFEROR:

Sundt Construction, Inc.

Company

8445 Freeport Pky, Suite 240

Address

Irving, TX 75063

City/State/Zip

By: 

(Signature)

Name: Jeff Williamson

(Please Print)

Title: Group President

(Please Print)

Date: 5.24.2023

END OF SECTION

"General Decision Number: TX20230025 01/06/2023

Superseded General Decision Number: TX20220025

State: Texas

Construction Type: Highway

Counties: Archer, Callahan, Clay, Collin, Dallas, Delta, Denton, Ellis, Grayson, Hunt, Johnson, Jones, Kaufman, Parker, Rockwall, Tarrant and Wise Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at

<http://www.dol.gov/whd/govcontracts>.

Modification Number Publication Date
0 01/06/2023

SUTX2011-007 08/03/2011

Rates Fringes

CONCRETE FINISHER (Paving and
Structures).....\$ 14.12 **

ELECTRICIAN.....\$ 19.80

FORM BUILDER/FORM SETTER

Paving & Curb.....\$ 13.16 **
Structures.....\$ 13.84 **

LABORER

Asphalt Raker.....\$ 12.69 **
Flagger.....\$ 10.06 **
Laborer, Common.....\$ 10.72 **
Laborer, Utility.....\$ 12.32 **
Pipelayer.....\$ 13.24 **
Work Zone Barricade
Servicer.....\$ 11.68 **

POWER EQUIPMENT OPERATOR:

Asphalt Distributor.....\$ 15.32 **
Asphalt Paving Machine.....\$ 13.99 **
Broom or Sweeper.....\$ 11.74 **
Concrete Pavement
Finishing Machine.....\$ 16.05 **
Concrete Saw.....\$ 14.48 **
Crane Operator, Lattice
Boom 80 Tons or Less.....\$ 17.27
Crane Operator, Lattice
Boom over 80 Tons.....\$ 20.52
Crane, Hydraulic 80 Tons
or Less.....\$ 18.12
Crawler Tractor.....\$ 14.07 **
Excavator, 50,000 pounds
or less.....\$ 17.19
Excavator, over 50,000
pounds.....\$ 16.99
Foundation Drill , Truck
Mounted.....\$ 21.07
Foundation Drill, Crawler
Mounted.....\$ 17.99
Front End Loader 3 CY or
Less.....\$ 13.69 **
Front End Loader, over 3 CY.\$ 14.72 **
Loader/Backhoe.....\$ 15.18 **
Mechanic.....\$ 17.68
Milling Machine.....\$ 14.32 **
Motor Grader, Fine Grade....\$ 17.19
Motor Grader, Rough.....\$ 16.02 **
Pavement Marking Machine....\$ 13.63 **
Reclaimer/Pulverizer.....\$ 11.01 **
Roller, Asphalt.....\$ 13.08 **
Roller, Other.....\$ 11.51 **
Scraper.....\$ 12.96 **
Small Slipform Machine.....\$ 15.96 **
Spreader Box.....\$ 14.73 **

Servicer.....\$ 14.58 **

Steel Worker (Reinforcing).....\$ 16.18 **

TRUCK DRIVER

Lowboy-Float.....\$ 16.24

Off Road Hauler.....\$ 12.25 **

Single Axle.....\$ 12.31 **

Single or Tandem Axle Dump

Truck.....\$ 12.62 **

Tandem Axle Tractor with

Semi Trailer.....\$ 12.86 **

Transit-Mix.....\$ 14.14 **

WELDER.....\$ 14.84 **

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

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** Workers in this classification may be entitled to a higher
minimum wage under Executive Order 14026 (\$16.20) or 13658
(\$12.15). Please see the Note at the top of the wage
determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave
for Federal Contractors applies to all contracts subject to the
Davis-Bacon Act for which the contract is awarded (and any
solicitation was issued) on or after January 1, 2017. If this
contract is covered by the EO, the contractor must provide
employees with 1 hour of paid sick leave for every 30 hours
they work, up to 56 hours of paid sick leave each year.
Employees must be permitted to use paid sick leave for their
own illness, injury or other health-related needs, including
preventive care; to assist a family member (or person who is
like family to the employee) who is ill, injured, or has other
health-related needs, including preventive care; or for reasons
resulting from, or to assist a family member (or person who is
like family to the employee) who is a victim of, domestic
violence, sexual assault, or stalking. Additional information
on contractor requirements and worker protections under the EO
is available at
<https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within
the scope of the classifications listed may be added after
award only as provided in the labor standards contract clauses
(29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification
and wage rates that have been found to be prevailing for the
cited type(s) of construction in the area covered by the wage
determination. The classifications are listed in alphabetical
order of "identifiers" that indicate whether the particular
rate is a union rate (current union negotiated rate for local),
a survey rate (weighted average rate) or a union average rate
(weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISIO"

"General Decision Number: TX20230018 04/14/2023

Superseded General Decision Number: TX20220018

State: Texas

Construction Type: Heavy

Counties: Collin, Dallas, Denton, Ellis, Kaufman and Rockwall
Counties in Texas.

Water and Sewer Lines/Utilities (Including Related Tunneling
Where the Tunnel is 48" or Less in Diameter)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number Publication Date

0	01/06/2023
1	04/14/2023

* PLUM0100-002 11/01/2022

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 35.73	13.07

* SUTX1991-004 09/23/1991

	Rates	Fringes
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Laborers:

Common.....	\$ 7.25 **
Utility.....	\$ 7.467 **

Pipelayer.....\$ 7.828 **

Power equipment operators:

Backhoe.....	\$ 10.804 **
Crane.....	\$ 10.942 **
Front End Loader.....	\$ 9.163 **
Tunneling Machine (48" or less).....	\$ 9.163 **

TRUCK DRIVER.....\$ 8.528 **

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====
 ** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$16.20) or 13658 (\$12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

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A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

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Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current

negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

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Wage and Hour Division
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200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

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U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISIO"

SECTION 00 45 27

CONTRACTOR COMPLIANCE WITH WORKER'S COMPENSATION LAW - CSP

Pursuant to Texas Labor Code Section 406.096(a), as amended, Contractor certifies that it provides worker's compensation insurance coverage for all of its employees employed on *Bonnie Brae Phase 3 Widening & Reconstruction*. Contractor further certifies that, pursuant to Texas Labor Code, Section 406.096(b), as amended, it will provide to City its subcontractor's certificates of compliance with worker's compensation coverage.

CONTRACTOR:

Sundt Construction, Inc.

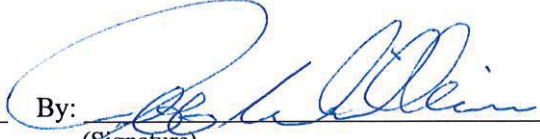
Company

8445 Freeport Pky, Suite 240

Address

Irving, TX 75063

City/State/Zip

By: 

(Signature)

Name: Jeff Williamson

(Please Print)

Title: Group President

(Please Print)

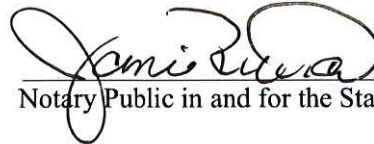
THE STATE OF TEXAS §

COUNTY OF DENTON §

BEFORE ME, the undersigned authority, on this day personally appeared known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same as the act and deed of Sundt Construction, Inc. for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 10th day of May, 2023.




 Notary Public in and for the State of Texas

END OF SECTION

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Contract or in other Contract Documents, the terms listed below have the meanings indicated which are applicable to both the singular and plural thereof, and words denoting gender shall include the masculine, feminine and neuter. When used in a context consistent with the definition of a listed-defined term, the term shall have a meaning as defined below whether capitalized or italicized or otherwise. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument titled “Agreement”, “Agreement – CSP”, or “Agreement – Unit Price Bid” executed by the City and Contractor for the Work, setting forth the name of the Project, Contract Price, Contract Time and the items included in the Contract.
 3. *Application for Payment*—The form acceptable to City which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract.
 4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 5. *Award*—Authorization by the City Council for the City to enter into an Agreement.
 6. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed. The term “Bid” shall be defined to include the term “Proposal” in those instances where the City utilizes a Request for Proposal rather than an Invitation for Bid.
 7. *Bidder*—The individual or entity that submits a Bid directly to City. The term “Bidder” shall be defined to include the terms “Proposer” or “Offeror” in those instances where the City utilizes a Request for Proposal rather than an Invitation for Bid.
 8. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda). The term “Bidding Documents” shall be defined to include the terms “Proposal Documents” in those instances where the City utilizes a Request for Proposal rather than an Invitation for Bid.
 9. *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. The term “Bidding Requirements” shall be defined to include the terms “Proposal Requirements” in those instances where the City utilizes a Request for Proposal rather than an Invitation for Bid and will include the Request for Proposal or Invitation to Offerors, Instructions to Offerors, Offerors Bond or other Proposal security, if any, the Proposal Form, and the Proposal with any attachments.

10. *Business Day*—A day that the City conducts normal business, generally Monday through Friday, except for federal or state holidays observed by the City.
11. *Calendar Day*—A day consisting of 24 hours measured from midnight to the next midnight.
12. *Change Order*—A document which is prepared by the Contractor or City, approved by the City, and signed by Contractor and City, authorizing an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Time, issued on or after the Effective Date of the Agreement.
13. *City*—The City of Denton is, a Texas home-rule municipal corporation acting by its City Council through its City Manager or his or her designee.
14. *City Attorney*—The officially appointed City Attorney of the City of Denton or his or her designee.
15. *City Council*—The duly elected and qualified governing body of the City of Denton.
16. *City Manager*—The officially appointed authorized City Manager of the City of Denton.
17. *Contract*—The entire and integrated set of written instruments between the City and Contractor concerning the Work comprised of the Agreement and all Contract Documents, which written instruments supersede all prior negotiations, representations, or agreements, whether written or oral, concerning the Work.
18. *Contract Claim*—A demand or assertion by City or Contractor seeking an adjustment of Contract Price or Contract Time, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Contract Claim.
19. *Contract Documents*—Those items so designated as “Contract Documents.” in the Agreement at Paragraph 5.1.A. Approved Submittals, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
20. *Contract Price*—The moneys payable by City to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 12.03 in the case of Unit Price Work). The Contract Price does not include any “Incentive”, if applicable.
21. *Contract Time*—The number of days or the dates stated in the Agreement to: (a) achieve Milestones, if any and (bb) complete the Work so that it is ready for Final Acceptance.
22. *Contractor*—The individual or entity with whom City has entered into the Agreement.
23. *Cost of the Work*—See Paragraph 12.01 of these General Conditions for definition.
24. *Damage Claims*—A demand for money or services arising from the Project or Site from a third party, City or Contractor exclusive of a Contract Claim.
25. *Day or day*—A day, unless otherwise defined, shall mean a Calendar Day.
26. *Drawings*—The part of the Contract Documents prepared or approved by an Engineer that graphically shows the scope, extent, and character of the Work to be performed by Contractor. Submittals, as defined, are not considered Drawings as so defined here.

27. *Effective Date of the Agreement*—The date, indicated in the Agreement, on which it becomes effective,, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the City.
28. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, text, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
29. *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 the 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.
30. *Engineer*—The licensed professional engineer or engineering firm registered in the State of Texas performing professional services for the City.
31. *Extra Work*—Additional work made necessary by City-approved changes or alterations to the Contract Documents. Extra Work shall be part of the Work.
32. *Field Order*—A written directive issued by City that requires changes in the Work but does not involve a change to the Contract Price, Contract Time, or Drawings, Plan, or Shop Drawings.
33. *Final Acceptance*—The written notice given by the City to the Contractor that the Work specified in the Contract Documents has been completed to the satisfaction of the City.
34. *Final Inspection*—The inspection performed by the City to determine whether the Contractor has completed each and every part or appurtenance of the Work fully, entirely, and in conformance with the Contract Documents.
35. *General Requirements*—Sections of The information set forth in “Division 101 – General Requirements” of the Standard Construction Specification Documents.
36. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, P C B s , Petroleum, Hazardous Waste, Radioactive Material, or any other substance, product, waste or materials, in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
37. *Hazardous Waste*—Any solid waste listed as hazardous or which possesses one or more hazardous characteristics as defined in applicable Laws and Regulations.
38. *Incidental or incidental*—Work items that the Contractor is not paid for directly, but costs for which are included under the various bid items of the Project.
39. *Laws and 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 over the Site or any portion or part of the Work to be performed.

40. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
41. *Major Item*—An item of work included in the Contract Documents that has a total cost equal to or greater than 5% of the original Contract Price.
42. *Milestone*—A principal event specified in the Contract Documents relating to the performance of an identified portion of the Work by an intermediate Contract Time prior to Final Acceptance of the Work.
43. *Notice of Award*—The written notice by City to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed in such notice, City will sign and deliver the Agreement.
44. *Notice to Proceed*—A written notice given by City to Contractor fixing the date on which the Contract Time will commence to run and on which Contractor shall start to perform the Work specified in Contract Documents.
45. *PCBs*—Polychlorinated biphenyls.
46. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), and including but not limited to oil, fuel oil, oil sludge, oil refuse, gasoline, diesel fuel, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
47. *Plans*—This term will have the same definition of as “Drawings”.
48. *Project* —The Work to be performed under the Contract.
49. *Project Manager*—The authorized representative of the City who will be assigned to the Project.
50. *Project Manual*—The documentary information prepared for bidding or proposing and furnishing the Work.
51. *Project Schedule*—A schedule, prepared and maintained by Contractor, in accordance with the General Requirements, describing the sequence and duration of the activities comprising Contractor’s plan to achieve each Milestone and accomplish the Work within the Contract Time.
52. *Public Meeting*—An announced meeting conducted by the City to facilitate public participation and to assist the public in gaining an informed view of the Project.
53. *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 will be judged.
54. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

55. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
56. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are 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.
57. *Site*—Lands or areas indicated in the Contract Documents as being furnished by City upon which the Work is to be performed, including rights-of-way, permits, and easements for access thereto, and such other lands furnished by City which are designated for the use of Contractor.
58. *Specifications or Technical 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. Specifications may be specifically made a part of the Contract Documents by attachment or, if not attached, may be incorporated by reference as indicated in the Table of Contents (Section 00 00 00) of the Project.
59. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
60. *Submittal*—All drawings, diagrams, illustrations, schedules and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to the City to illustrate some portion of the Work.
61. *Subsidiary or subsidiary*—*These terms will have the same* definition as "Incidental. or incidental".
62. *Successful Bidder*—The Bidder to whom City issues a Notice of Award. The term "Bidder" shall be defined to include the terms "Proposer" or "Offeror" in those instances where the City utilizes a Request for Proposal rather than an Invitation for Bid and is the Proposer or Offeror submitting the proposal or offer that provides the best value to the City and to whom the City issues a Notice of Award.
63. *Superintendent*—The representative of the Contractor who is available at all times and able to receive instructions from the City and to act for the Contractor.
64. *Supplementary Conditions*—The part of the Contract set forth at Division 00 73 00 that amends or supplements these General Conditions.
65. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, 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.
66. *Underground Facilities*—All 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.

67. *Unit Price Work*—Work for which the Contract Price is determined by multiplying the unit price for the item by the estimated quantity of the item.
68. *Weekend Working Hours*—Those hours between 8:00 a.m. and 8:30 p.m. on Saturday, and between 1:00 p.m. and 8:30 p.m. on Sunday or on a federal or state holiday observed by the City, as approved in advance by the City for performing Work.
69. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction including any Change Order or Field Order, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
70. *Working Day*—Defined as a Business Day but excluding any days that weather or other conditions beyond the reasonable control of the Contractor prevents the performance of the principal unit of work underway for a continuous period of not less than 7 hours between 7:00 a.m. and 8:00 p.m.

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, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives*: The Contract includes the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of judgment by CityCity. 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 City as to the Work. It is intended that such exercise of judgment, action, or determination will be 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).
- C. *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; or
 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 City’s written notice of Final Acceptance.
- D. *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) 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, means to execute, carry out, 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.
- E. Unless stated otherwise in the Contract, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract 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 City, Contractor shall also deliver to City the performance bond, payment bond and maintenance bond that comply with the provisions of Chapter 2253 of the Texas Government Code. Work will not be allowed to begin until the performance and payment bonds have been provided by the Contractor to the City.
- B. Evidence of Contractor’s Insurance: When Contractor delivers the signed counterparts of the Agreement to City, Contractor shall also deliver to City, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6. Work will not be allowed to begin until the evidence of insurance has been provided by the Contractor to the City.

2.02 *Copies of Documents*

- A. City shall furnish to Contractor one (1) original executed copy and one (1) electronic copy of the Contract, and three (3) additional copies of the Drawings. Additional printed copies will be furnished upon request at the cost of reproduction.

2.03 *Before Starting Construction*

Baseline starting Work, Contractor shall submit for review by City the following in accordance with the Contract Documents:

- A. Baseline Schedules in accordance with General Requirements, Section 01 32 16.
- B. Preliminary Schedule of Submittals.
- C. Preliminary Schedule of Values: For lump sum contracts, a Schedule of Values for all of the Work that includes quantities and prices of items that when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Meeting*

- A. Before any Work at the Site is started, the Contractor shall attend a Preconstruction Meeting as specified in Section 01 31 19.

2.05 *Public Meeting*

- A. Contractor may not mobilize any equipment, materials, or resources to the Site prior to Contractor attending the Public Meeting as scheduled by the City.

2.06 *Initial Acceptance of Schedules*

- A. No progress payment shall be made to Contractor until acceptable Project Schedules are submitted to City in accordance with the Contract Documents.

2.07 *Electronic Submittals and Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the City 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 City 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.

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 to describe a functionally complete Project to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to City.
- C. City will issue clarifications and interpretations of the Contract Documents as provided herein.
- D. The Specifications may vary in form, forma and style. Some Specification sections may be written in varying degrees of streamlined or declarative style, and some sections may be relatively narrative by comparison. Omission of such words and phrases as “the Contractor shall,” “in conformity with,” “as shown,” or “as specified” are intentional in streamlined sections. Omitted words and phrases shall be supplied by inference. Similar types of provisions may appear in various parts of a section or articles within a part depending on the format of the section. The Contractor shall not take advantage of any variation of form, format or style in making Contract Claims or Damage Claims.

- E. The cross-referencing of Specification sections under the subparagraph heading “Related Sections include but are not necessarily limited to:” and elsewhere within each Specification section is provided as an aid and convenience to the Contractor. The Contractor shall not rely on the cross-referencing provided and shall be responsible to coordinate the entire Work under the Contract Documents and provide a complete Project whether or not cross-referencing is provided in each section or whether the cross-referencing is complete or accurate.

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 Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of City, Contractor, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to City or any of its officers, elected or appointed officials, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *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 carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements, and conditions. Contractor shall promptly report in writing to City any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from City before proceeding with any Work affected thereby.
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 City in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.1717) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by City, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to City 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 may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents 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; 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).
2. In case of discrepancies, figured dimensions shall govern over scaled dimensions, Drawings shall govern over Specifications, and Supplementary Conditions shall govern over General Conditions and Specifications.

3.04 Requirements of the Contract Documents

- A. During the performance of the Work and until final payment, Contractor shall submit to the City 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. City will be the interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.
- B. City will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. City's written clarification, interpretation, or decision will be final and binding on Contractor, unless Contractor appeals by filing a Contract Claim.

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 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 CityCity 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 City's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 05 will survive final payment, or 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 Time; Notice to Proceed*

- A. The Contract Time will commence to run on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Time commences to run. No Work may be done at the Site prior to the date on which the Contract Time commences to run.

4.03 *Delays in Contractor's Progress*

- A. If Contractor is delayed, City shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project. The City shall be liable only to the extent allowed by the provisions of the Contract and as allowed by Subchapter I, Chapter 271 of the Texas Local Government Code.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Time for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. The Contractor shall receive no compensation for delays or hindrances to the Work, except when direct and unavoidable extra cost to the Contractor is caused by the failure of the City to provide information or material, if any, that the Contract specifies is to be furnished by the City.
- D. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of City, Contractor, and those for whom they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Time. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this Paragraph 4.03. D. The Contractor is responsible for the prompt submission of a request for an adjustment to the Contract Time under this Paragraph to the City. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Time under this Paragraph include but are not limited to 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 City, as contemplated in Article 8); and

4. Acts of war or terrorism.
- E. Contractor's entitlement to an adjustment of Contract Time or Contract Price is limited as follows:
 1. Contractor's entitlement to an adjustment of the Contract Time is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
 2. 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 Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Time to which Contractor is otherwise entitled.
 3. Adjustments of Contract Time or Contract Price are subject to the provisions of Article 11.
- F. Each Contractor request or Change Order seeking an increase in Contract Time or Contract Price must 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 date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
 4. The number of days' increase in Contract Time claimed as a consequence of each such cause of delay, disruption, or interference; and
 5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.08.
 6. Contractor shall also furnish such additional supporting documentation as City may require including, where appropriate, a revised Project 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 to completion of the Work.
- G. 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 not shown or indicated with reasonable accuracy, and those resulting from undisclosed Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.03.F and 4.03.G.

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

5.01 *Availability of Lands*

- A. City shall furnish the Site. City shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which

Contractor must comply in performing the Work. City will be responsible for obtaining any necessary easements for permanent structures or permanent changes in existing facilities.

1. The City has obtained or anticipates acquisition of and/or access to right-of-way, and/or easements. Any outstanding right-of-way and/or easements are anticipated to be acquired in accordance with the schedule set forth in the Supplementary Conditions. The Project Schedule submitted by the Contractor in accordance with the Contract Documents must consider any outstanding right-of-way, and/or easements.
 2. Unless otherwise specified in the Contract Documents, the City has or anticipates moving and/or relocating utilities, and obstructions to the Site. Any outstanding movement or relocation of utilities or obstructions is anticipated in accordance with the schedule set forth in the Supplementary Conditions. The Project Schedule submitted by the Contractor in accordance with the Contract Documents must consider any outstanding utilities or obstructions to be moved and/or relocated by others.
- B. Upon reasonable written request of Contractor, City shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed.
- C. Contractor shall provide for any additional lands and access thereto not included in the Site that may be required for construction facilities or storage of materials and equipment. The cost of such shall be part of the Contract Price.

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, worker car parking and the operations of workers to the Site, to adjacent areas that Contractor has arranged to use through construction easements or otherwise, and to other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with worker car parking, construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries, including death, and damage to or losses of property sustained by the owners or occupants of any such land or areas; provided that such damage, losses, injuries or deaths arose out of or result from the performance of the Work or arose out of or resulted from any other actions or conduct of the Contractor or those for whom Contractor is responsible.
 2. At any time when, in the judgment of the City, the Contractor has obstructed, closed, or is carrying on operations in a portion of a street, right-of-way, or easement greater than is necessary for proper execution of the Work, the City may require the Contractor to reduce the area impacted to only that necessary for proper execution of the Work and/or to finish the section on which operations are in progress before work is commenced on any additional area of the Site.

3. Construction equipment, spoil materials, supplies, forms, buildings, labs, or equipment and supply storage buildings, or any other item that may be transported by flood flows, shall not be stored within existing federal floodways during the course of the Work.
 4. Should any Damage Claim be made by any such owner or occupant adversely impacted because of the performance of the Work, Contractor shall promptly attempt to resolve the Damage Claim.
 5. **PURSUANT TO PARAGRAPH 7.21, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS CITY AND ITS OFFICERS, ELECTED AND APPOINTED OFFICIALS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES ARISING OUT OF OR RELATING TO ANY CLAIM OR ACTION, LEGAL OR EQUITABLE, BROUGHT BY ANY SUCH ADVERSELY IMPACTED OWNER OR OCCUPANT AGAINST CITY.**
- 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 will conform to applicable Laws and Regulations.
- C. *Site Maintenance Cleaning:* If 24 hours after written notice is given to the Contractor that the clean-up at the Site is insufficient or occurring in a manner unsatisfactory to the City, the Contractor fails to correct the unsatisfactory condition and/or procedures, the City may take such direct action as the City deems appropriate to correct the clean-up deficiencies cited to the Contractor in the written notice, and the costs of such direct corrective action, plus 25 % of such costs, shall be deducted from the monies due or to become due to the Contractor under the Contract.
- D. *Final Site Cleaning:* Prior to Final Acceptance of the Work, Contractor shall clean the Site and the Work and make it ready for utilization by City and any adjacent property owners, if applicable. At the completion of the Work, Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, surplus materials, waste materials, rubbish and other debris and shall restore to original condition or better all areas impacted or disturbed by the Work.
- E. *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, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
1. Those reports known to City of explorations and tests of subsurface conditions at or contiguous to the Site; and
 2. Those drawings known to City of existing physical conditions at or contiguous to the Site, including those drawings known to City depicting existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities.).
- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A.

Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as technical data.

- C. *Reliance by Contractor on Technical Data:* Contractor is provided certain technical data identified in the Supplementary Conditions with respect to such reports and drawings for its use, but the City does not warrant or guarantee the accuracy of the information, and such information including reports and drawings are not Contract Documents. Contractor may not make any Contract Claim against City, or any of their officers, elected or appointed officials, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness or accuracy of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. 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 City'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 either:
1. is of such a nature as to establish that any "technical data" is materially inaccurate; or
 2. is of such a nature as to require a change in the Contract Documents; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.17), notify City in writing about such condition.

- B. *Possible Price and Time Adjustments*
1. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Time if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a final commitment to City with respect to Contract Price and Contract Time by the submission of a Bid or becoming bound under the Contract; or

- b. The existence of such condition reasonably could have been discovered or revealed as a result of the examination of the Contract Documents or the Site; or
 - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
- C. *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. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site is based on information and data furnished to City or Engineer by the owners of such Underground Facilities, including City, or by others, unless it is otherwise expressly provided in the Supplementary Conditions:
 - 1. City and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and
 - 2. the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data;
 - b. 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;
 - c. coordination and adjustment of the Work with the owners (including City) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Not Shown or Indicated:*
 - 1. If an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings or otherwise indicated in the Contract Documents, or was not shown or indicated on the Drawings or in the Contract Documents 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 7.17), identify the owner of such Underground Facility and give notice to that owner and to City. Contractor shall be responsible for the safety and protection of such discovered Underground Facility.
 - 2. If City concludes that a change in the Contract Documents is required, a Change Order may be issued to reflect and document such consequences, subject to the provisions of Article 11.
 - 3. Verification of existing utilities, structures, and service lines shall include notification of all utility companies a minimum of 48 hours in advance of construction including exploratory excavation if necessary.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings*: The Supplementary Conditions identify:
1. those reports known to City relating to Hazardous Environmental Conditions that have been identified at the Site; or
 2. drawings known to City relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Reliance by Contractor on Technical Data*: Contractor is provided certain technical data identified in the Supplementary Conditions with respect to such reports and drawings for its use, but the City does not warrant or guarantee the accuracy of the information, and such information including reports and drawings are not Contract Documents. Contractor may not make any Contract Claim against City, or any of its officers, elected or appointed officials, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness or accuracy of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. 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 City'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.
- C. Contractor shall not be responsible for a Hazardous Environmental Condition uncovered or revealed at the Site if such Hazardous Environmental Condition was not shown or indicated in Drawings or Specifications or identified if the removal or remediation of such Hazardous Environmental Condition was not identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created by the actions of or with any materials brought to the Site by Contractor, Subcontractors, Suppliers or anyone else for whom Contractor is responsible and the costs associated with the same.
- D. 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 Contractor or anyone for whom Contractor is responsible 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 affected thereby (except in an emergency as required by Paragraph 7.17); and (3) notify City (and promptly thereafter confirm such notice in writing). City may consider the necessity to retain a qualified expert to evaluate such condition or take corrective action, if any.

- E. Contractor shall not be required to resume Work in connection with a Hazardous Environmental Condition identified pursuant to Paragraph 5.06.D or in any affected area until after City has obtained any 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.
- F. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then City may order the portion of the Work that is in the area affected by such condition to be deleted from the Work and the Contract Price. City may have such deleted portion of the Work performed by City's own forces or others.
- G. **TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS CITY, AND ITS OFFICERS, ELECTED AND APPOINTED OFFICIALS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, CONSULTANTS, AND SUBCONTRACTORS OF EACH AND ANY OF THEM, FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) FOR PERSONAL INJURY, DEATH OR PROPERTY DAMAGE ARISING OUT OF OR RELATING TO A HAZARDOUS ENVIRONMENTAL CONDITION CREATED BY CONTRACTOR OR BY ANYONE FOR WHOM CONTRACTOR IS RESPONSIBLE. NOTHING IN THIS PARAGRAPH 5.06.CityG OBLIGATES CONTRACTOR TO INDEMNIFY ANY INDIVIDUAL OR ENTITY FROM AND AGAINST THE CONSEQUENCES OF THAT INDIVIDUAL'S OR ENTITY'S OWN NEGLIGENCE.**
- H. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue bonds or insurance policies for the limits and coverages required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

6.02 *Performance, Payment, and Maintenance Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, in accordance with the provisions of the Texas Government Code Chapter 2253 or successor statute and as required by the City, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. The performance and payment bonds must be provided by the Contractor to the City prior to the Contractor beginning any Work.

- B. Contractor shall furnish maintenance bonds in an amount equal to the Contract Price as security to protect the City against any defects in any portion of the Work described in the Contract Documents. Maintenance bonds shall remain in effect for two (2) years after the date of Final Acceptance by the City. The maintenance bond(s) shall be provided as directed by the City as part of the close-out of the Contract and shall be provided prior to the final payment being made.
- C. All bonds shall be in the form prescribed by the Contract Documents, except as provided otherwise by Laws and Regulations, and must 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 must be accompanied by a certified copy of that individual’s authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, or its right to do business is terminated in the State of Texas, then Contractor shall promptly notify City in writing and shall, within 30 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, City may refuse to allow the Contractor to begin Work, exclude the Contractor from the Site and exercise City’s termination rights under Article 15.
- F. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have 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.

6.03 *Certificates of Insurance*

- A. Contractor shall deliver to City, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance and endorsements (and other evidence of insurance requested by City or any other additional insured) establishing that Contractor has obtained and is maintaining the policies and coverages required by these General Conditions and the Supplementary Conditions prior to beginning any Work.
 - 1. The certificate of insurance shall document the City, and all identified entities named in the Supplementary Conditions as “additional insureds” on all liability policies.
 - 2. The Contractor’s general liability insurance shall include a “per project” or “per location” endorsement, that shall be identified in the certificate of insurance provided to the City.
 - 3. The certificate shall be signed by an agent authorized to bind coverage on behalf of the insured, be complete in its entirety, and show complete insurance carrier names as listed in the current A.M. Best Property & Casualty Guide.
 - 4. The insurers for all policies must be licensed and/or approved to do business in the State of Texas. Except for workers’ compensation, all insurers must have a minimum rating of A-: VII in the current A. M. Best Key Rating Guide or have reasonably equivalent

financial strength and solvency to the satisfaction City. If the rating is below that required, written approval of City is required.

5. All applicable policies shall include a Waiver of Subrogation (Rights of Recovery) in favor of the City. In addition, the Contractor agrees to waive all rights of subrogation against the Engineer (if applicable), and each additional insured identified in the Supplementary Conditions
6. Failure of the City to demand such certificates or other evidence of full compliance with the insurance requirements or failure of the City to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such lines of insurance coverage or to provide such certificates or other evidence of full compliance with the insurance requirements.
7. If insurance policies are not written for specified coverage limits, an Umbrella or Excess Liability insurance for any differences is required. Excess Liability shall follow form of the primary coverage.
8. Unless otherwise stated, all required insurance shall be written on the "occurrence basis". If If City agrees in writing that coverage is underwritten may be written on a claims-made basis, the retroactive date shall be coincident with or prior to the date of the effective date of the Agreement and the certificate of insurance shall state that the coverage is claims-made and the retroactive date. The insurance coverage shall be maintained for the duration of the Contract and for three (3) years following Final Acceptance or for the warranty period provided for under the Contract Documents or for the warranty period, whichever is longer. An annual certificate of insurance submitted to the City shall evidence such insurance coverage.
9. Policies shall have no exclusions by endorsements that either nullify or amend the required lines of coverage, nor or decrease the limits of said coverage unless such endorsements are approved in writing by the City. In the event a Notice of an Award has been issued or the Agreement executed, and the policy exclusions are determined to be unacceptable or the City desires that the Contractor obtain additional insurance coverage the contract price shall be adjusted by the cost of the premium for such additional coverage plus 10%.
10. For any proposed self-insured retention (SIR,) in excess of \$25,000.00, affecting insurance coverage, Contractor must obtain the written approval of the City in regard to asset value and stockholders' equity. In lieu of traditional insurance, proposed alternative coverage maintained through insurance pools or, risk retention groups, or self-funding will also require the written approval of the City.
11. Any deductible in excess of \$5,000.00, for any policy that does not provide coverage on a first-dollar basis must be acceptable to and approved in writing by the City.
12. City, at its sole discretion, reserves the right to review the insurance requirements and to make reasonable adjustments to insurance coverages and limits when deemed necessary and prudent by the City based upon the scope of the Work, changes in statutory law, court decision or the claims history of the industry as well as of the contracting party to the City. The City will provide prior notice of 90 days and the insurance adjustments shall be incorporated into the Work by Change Order.

13. City shall be entitled, upon written request to Contractor and without expense to City, to receive copies of policies and endorsements thereto and. City may make any reasonable requests for deletion or revision or modifications of particular policy terms, conditions, limitations, or exclusions necessary to conform the policy and endorsements to the requirements of the Contract. Deletions, revisions, or modifications shall not be required where policy provisions are established by law or regulations binding upon either party or the underwriter on any such policies.
14. City shall not be responsible for the direct payment of insurance premium costs for Contractor's insurance.

6.04 *Contractor's Insurance*

- A. *Workers Compensation and Employers' Liability:* Contractor shall purchase and maintain such insurance coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Texas Labor Code, Ch. 406, as amended), and minimum limits for Employers' Liability as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:
 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
 2. claims for damages because of bodily injury, occupational sickness or disease, or death of employees.
- B. *Commercial General Liability.* Coverage shall include but not be limited to covering liability (bodily injury, including death, or property damage) arising from: premises/operations, independent contractors, products/completed operations, personal injury including death, liability under an insured contract, and explosion/collapse/underground (where those exposures exist). Insurance shall be provided on an occurrence basis, and as comprehensive as the current Insurance Services Office (ISO) policy. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the City. The Commercial General Liability policy shall have no exclusions by endorsements that would alter or nullify premises/operations, products/completed operations, contractual, personal injury, or advertising injury, that are normally contained with the policy, unless the City approves such exclusions in writing.

For construction projects that present a substantial completed operation exposure, the City may require the Contractor to maintain completed operations coverage for a minimum of no less than three (3) years following the completion of the project (if identified in the Supplementary Conditions)).
- C. *Automobile Liability.* A commercial business auto policy shall provide coverage on "any auto", defined as autos owned, hired and non-owned and provide indemnity for claims for damages because of bodily injury or death of any person and/or property damage arising out of or related to the work, maintenance or use of any motor vehicle by the Contractor, any

Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.

- D. *Railroad Protective Liability.* If any of the Work or any warranty work is within the limits of railroad right-of-way, the Contractor shall comply with the requirements identified in the Supplementary Conditions.
- E. *Notification of Policy Cancellation:* Contractor shall immediately notify City upon cancellation or other loss of insurance coverage. Contractor shall stop Work until replacement insurance has been procured. There shall be no time credit for delays or days not worked pursuant to this section.

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

- A. If City has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the Contractor in accordance with Article 6 or the Supplementary Conditions on the basis of non-conformance with the Contract Documents, the City shall so notify the Contractor in writing within 10 Business Days after receipt of the certificates (or other evidence requested). Contractor shall provide to the City such additional information in respect of insurance provided as the City may reasonably request. If Contractor does not purchase or maintain all of the bonds and insurance required by the Contract Documents, the City shall notify the Contractor in writing of such failure prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Such failure to provide bonds or insurance as required by the Contract Documents is a breach of the terms of the Contract and the City may terminate the Contractor in accordance with the provisions of the Contract Documents.

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 City-delegated professional design services under this Contract, and neither City 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 may be necessary to perform the Work in accordance with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall identify and assign a competent superintendent, who is proficient in English, and who shall not be replaced without written

notice to City of the name of the replacement superintendent. If at any time the superintendent is not satisfactory to the City, Contractor shall, if requested by City, replace the superintendent with another satisfactory to City.

- C. Contractor shall notify the City 24 hours prior to moving areas during the sequence of construction.

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 at all times maintain good discipline and order at the Site.
- B. Contractor shall be fully responsible to City for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, 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 on Business Days. Contractor will not permit the performance of Work outside of regular working hours on Business Days without City's prior written consent (which will not be unreasonably withheld)). Contractor's written request (by letter or electronic communication) for City's written consent must be made as follows:
 - 1. for Work beyond regular working hours on Business Days, request must be made by noon at least two (2) Business Days prior;
 - 2. for Work during Weekend Working Hours, request must be made by noon of the preceding Wednesday; and
 - 3. for Work on state or federal holidays observed by the City, request must be made sufficiently in advance of the holiday, to satisfy requirements for City Council approval.

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, Contractor required 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 as specified or, if not specified, shall be of sufficient quality to complete the Work, and must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of City. If required by City, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment to be incorporated into the Work shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with

instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

- D. All items of standard equipment to be incorporated into the Work shall be the latest model at the time of bid, unless otherwise specified.

7.05 *Project Schedule*

- A. Contractor shall adhere to the Project Schedule established in accordance with Paragraph 2.06 and the General Requirements as it may be adjusted from time to time as provided below.
1. Contractor shall submit to the City for acceptance (to the extent indicated in Paragraph 2.06 and the General Requirements) proposed adjustments in the Project Schedule that will not result in changing the Contract Time. Such adjustments must comply with any provisions of the General Requirements applicable thereto.
 2. Contractor shall submit to City a monthly Project Schedule with a monthly progress payment request for the duration of the Contract in accordance with the Construction Progress Schedule, General Requirements 01 32 16.
 3. Proposed adjustments in the Project Schedule that will change the Contract Time shall be submitted in accordance with the requirements of Article 11. Adjustments in Contract Time may only be made by a Change Order.

7.06 *“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 City permit the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
1. If City 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, it may be considered by City as an “or equal” item. For the purposes of this Paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
 - a. the City determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it 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) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to City.

- 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 City or increase in Contract Time; 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. *City's Evaluation and Determination*: City will be allowed a reasonable time to evaluate each "or-equal" request. City may require Contractor to furnish additional data about the proposed "or-equal" item. City will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until City's review is complete and City determines that the proposed item is an "or-equal." City." City will advise Contractor in writing of its determination.
- D. *Effect of City's Determination*: Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The City's denial of an "or-equal" request will 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 City determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that City consider the item a proposed substitution pursuant to Paragraph 7.07.

7.07 Substitutions

- 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 City permit the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related Work at the Site.
 - 1. Contractor shall submit sufficient information as provided below to allow City to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitution therefor. City will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
 - 2. The requirements for review by City will be as set forth in Paragraph 7.07.B, as supplemented by the Specifications, and as City may decide is appropriate under the circumstances.
 - 3. Contractor shall make written application to City for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application shall comply with Section 01 25 00 and:
 - a. will certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design;
 - 2) be substantially similar in substance to the item specified; and

- 3) be well-suited to the same use as the item specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will adversely impact Contractor's achievement of Final Acceptance on or before the Contract Time;
 - 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 City 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. will identify:
 - 1) all variations of the proposed substitute item from the item specified; and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. will 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 Damage Claims of other contractors affected by any resulting change.
- B. *City's Evaluation and Determination:* City will be allowed a reasonable time to evaluate each substitution request. City may require Contractor to furnish additional data about the proposed substitute item. City will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until City's review is complete and City determines that the proposed item is an acceptable substitution. City's approval determination will be evidenced by a Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Time. City will advise Contractor in writing of any denial determination.
- C. *Special Guarantee:* City may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitution. ***Contractor shall indemnify and hold harmless City and its officers, elected and appointed officials, employees, agents, consultants and subcontractors and anyone directly or indirectly employed by them from and against any and all claims, damages, losses and expenses (including attorney's fees) arising out of or relateds to the use of substituted materials or equipment.***
- D. *Reimbursement of City's Cost:* City will record City's costs in evaluating a substitution proposed or submitted by Contractor. Whether or not City approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse City for evaluating each such proposed substitute. Contractor shall also reimburse City for the charges for making changes in the Contract Documents (or in the provisions of any other direct contract with City) 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. *City Substitution Reimbursement:* Cost savings attributable to acceptance of a substitution shall be paid to City by Contractor by an appropriate Change Order decreasing the Contract Price.
- G. *Effect of City's Determination:* If City approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The City's denial of a substitution request will 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 7.07.D, by timely submittal of a Change Order.

7.08 *Concerning Subcontractors and Suppliers*

- A. Contractor shall perform with its own organization, and with the assistance of workmen under its immediate superintendence, work of a value not less than 35% of the Contract Price, unless otherwise approved by the City.
- B. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, against whom City may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection, except as provided in Paragraph 7.08.C. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to City to perform and complete the Work in accordance with the Contract.
- C. The City may require the use of specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work , and will provide such requirements in the Supplementary Conditions.
- D. Contractor shall provide to City as part of the Bid, the identity of all proposed Subcontractors and Suppliers. Such proposed Subcontractor or Supplier shall be deemed acceptable to City unless City raises a substantive, reasonable objection prior to execution of the Agreement.
- E. Contractor shall be fully responsible to City for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between City and any such Subcontractor, Supplier or other individual or entity; nor
 - 2. shall create any obligation on the part of City to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- F. No acceptance by City of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of City to the completion of the Work in accordance with the Contract Documents, Contract Price and Contract Time.
- G. Contractor shall be solely responsible for scheduling and coordinating the tasks of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

- H. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of City. Contractor must comply with all applicable federal, state, and local laws, statutes, ordinances or regulations, including but not limited to immigration laws, workers compensation laws and wage laws, in the hiring of any Subcontractor or Supplier and shall ensure that each Subcontractor or Supplier has the same obligations.
- I. Contractor shall restrict all Subcontractors and Suppliers from communicating with City, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.09 *Wage Rates*

- A. *Duty to pay Prevailing Wage Rates:* The Contractor shall comply with all requirements of Chapter 2258, Texas Government Code (as amended), including the payment of not less than the rates determined by the City Council of the City of Denton to be the prevailing wage rates in accordance with Chapter 2258. The then current prevailing wage rates at the time of execution of the Agreement are included in these Contract Documents.
- B. *Penalty for Violation:* A Contractor or any Subcontractor who does not pay the prevailing wage shall, upon demand made by the City, pay to the City \$60 for each worker employed for each calendar day or part of the day that the worker is paid less than the prevailing wage rates stipulated in these contract documents. This penalty shall be retained by the City to offset its administrative costs, pursuant to Texas Government Code Section 2258.023.
- C. *Complaints of Violations and City Determination of Good Cause:* On receipt of information, including a complaint by a worker, concerning an alleged violation of Section 2258.023, Texas Government Code, by a Contractor or Subcontractor, the City shall make an initial determination, before the 31st day after the date the City receives the information, as to whether good cause exists to believe that the violation occurred. The City shall notify in writing the Contractor or Subcontractor and any affected worker of its initial determination. Upon the City's determination that there is good cause to believe the Contractor or Subcontractor has violated Chapter 2258, the City shall retain the full amounts claimed by the claimant or claimants as the difference between wages paid and wages due under the prevailing wage rates, such amounts being retained from successive progress payments pending a final determination of the violation.
- D. *Arbitration Required if Violation Not Resolved:* An issue relating to an alleged violation of Section 2258.023, Texas Government Code, including a penalty owed to the City or an affected worker, shall be submitted to binding arbitration in accordance with the Texas General Arbitration Act (Article 224 et seq., Revised Statutes) if the Contractor or Subcontractor and any affected worker does not resolve the issue by agreement before the 15th day after the date the City makes its initial determination pursuant to Paragraph 7.09.C. If the persons required to arbitrate under this section do not agree on an arbitrator before the 11th day after the date that arbitration is required, a district court shall appoint an arbitrator on the petition of any of the persons. The City is not a party in the arbitration. The decision and award of the arbitrator is final and binding on all parties and may be enforced in any court of competent jurisdiction.

- E. *Records to be Maintained:* The Contractor and each Subcontractor shall, for a period of three (3) years following the date of Final Acceptance, maintain records that show (i) the name and occupation of each worker employed by the Contractor in the construction of the Work provided for in this Contract; and (ii) the actual per diem wages paid to each worker. The records shall be available in Denton County, Texas at all reasonable hours for inspection by the City. The provisions of Paragraph 7.23, Right to Audit, shall pertain to this inspection.
- F. *Progress Payments:* With each progress payment request or payroll period, whichever is less, the Contractor shall submit an affidavit stating that the Contractor has complied with the requirements of Chapter 2258, Texas Government Code.
- G. *Posting of Wage Rates:* The Contractor shall post prevailing wage rates in a conspicuous place at the Site at all times.
- H. *Subcontractor Compliance:* The Contractor shall include in its subcontracts and/or shall otherwise require all of its Subcontractors to comply with Paragraphs 7.09.A through 7.09.G.

7.10 *Patent Fees and Royalties*

- A. Contractor shall pay all patent or license fees and royalties and pay all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If 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 City, its use is subject to patent rights or copyrights calling for the payment of any patent or license fee or royalty to others, the existence of such rights will be disclosed in the Contract Documents. Failure of the City to disclose such information does not relieve the Contractor from its obligations to pay said fees or, royalties or costs to others.
- B. **TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS CITY, AND ITS OFFICERS, ELECTED AND APPOINTED OFFICIALS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, CONSULTANTS AND SUBCONTRACTORS OF EACH AND ANY OF THEM, FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO ANY INFRINGEMENT OF PATENT RIGHTS OR COPYRIGHTS INCIDENT TO THE USE IN THE PERFORMANCE OF THE WORK OR RESULTING FROM THE INCORPORATION IN THE WORK OF ANY INVENTION, DESIGN, PROCESS, PRODUCT, OR DEVICE.**

7.11 *Permits and Utilities*

- A. *Contractor obtained permits and licenses.* Unless otherwise expressly provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. City shall provide reasonable assistance to Contractor, if necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work applicable at the time the Notice of Award is issued, except for permits provided by the City as specified in Paragraph 7.11.B. City shall pay the charges of utility service providers for connections for providing permanent service to the Work.

- B. *City obtained permits and licenses.* City will obtain and pay for those permits and licenses identified as City's responsibility in the Supplementary Conditions or Contract Documents. It will be the Contractor's responsibility to comply with and carry out the provisions of the permit. If the Contractor initiates changes to the Contract and the City approves the changes, the Contractor is responsible for obtaining clearances and coordinating with the appropriate regulatory agency, relating to the changes. The City will not reimburse the Contractor for any cost associated with the requirements of any City acquired permit. The following are permits the City will obtain if required:
1. Texas Department of Transportation Permits
 2. U.S. Army Corps of Engineers Permits
 3. Texas Commission on Environmental Quality Permits
 4. Railroad Company Permits
 5. Texas Department of Licensing and Regulation (TDLR) Permits
- C. *Outstanding permits and licenses.* Any outstanding permits and licenses are anticipated to be acquired in accordance with the schedule set forth in the Supplementary Conditions. The Project Schedule submitted by the Contractor in accordance with the Contract Documents must consider any outstanding permits and licenses.

7.12 *Taxes*

- A. On issuance of a Notice of Award by the City, an organization which qualifying for exemption pursuant to Texas Tax Code, Subchapter H (as amended), the Contractor may purchase, rent or lease all materials, supplies and equipment used or consumed in the performance of this contract by issuing to hisits Supplier an exemption certificate in lieu of the tax, said exemption certificate to comply with State Comptroller's Rulings applicable to Texas Tax Code, Subchapter H. Any such exemption certificate issued to the Contractor in lieu of the tax shall be subject to and shall comply with all applicable rulings pertaining to the Texas Tax Code, Subchapter H.
- B. Texas tax permits and information may be obtained from:
1. Comptroller of Public Accounts
Sales Tax Division
Capitol Station
Austin, TX 78711; or
 2. <http://www.window.state.tx.us/taxinfo/taxforms/93-forms.html>

7.13 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, City shall not be responsible for monitoring Contractor's compliance with any Laws and Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws and Regulations, Contractor shall be liable for all resulting claims, costs losses, and damages, and shall indemnify and hold harmless City, and its officers, elected

and appointed officials, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action.

- C. Changes in Laws and Regulations not known at the time of the City's issuance of a Notice of Award having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Time.

7.14 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, 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. Contractor shall include accurate locations for buried and imbedded items. These record documents, together with all approved Samples, will be available to City for reference. Upon completion of the Work, Contractor shall deliver these record documents to City prior to Final Inspection.

7.15 *Safety and Protection*

- A. As between City and Contractor, Contractor shall be responsible for the safety of persons and property in the performance of the Work, for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work and 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. Contractor shall inform the City in writing of Contractor's designated safety representative at the Site.
- 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 may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, 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 7.1515.C.2 or 7.1515.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be the responsibility of and remedied by Contractor at its expense.
- 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 implement, erect and maintain all necessary safeguards for such safety and protection.

- F. Contractor shall notify City; 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 that prosecution of the Work may 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 City's safety programs, if any.
- H. Contractor shall inform City in advance in writing of the specific requirements of Contractor's safety program with which City's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed and City has issued a Letter of Final Acceptance.
- J. Contractor's duties and responsibilities for safety and protection will 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.

7.16 *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 and Regulations.

7.17 *Emergencies and/or Rectification*

- A. In the event of threatened or actual emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to immediately act to prevent damage, injury, or loss. Contractor shall give City prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused by an emergency or are required as a result of Contractor's response to an emergency. If City determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Change Order may be issued.
- B. Should the Contractor fail to respond to a request from the City to rectify any discrepancies, omissions, or correction necessary to conform with the requirements of the Contract Documents, the City shall give the Contractor written notice that such work or changes are to be performed. The written notice shall direct attention to the discrepant condition and request the Contractor to take remedial action to correct the condition. In the event the Contractor does not take proper action within 24 hours to fulfill this written request or fails to show just cause for not taking the proper action, within 24 hours, the City may take such remedial action with City resources or by contract. The City shall deduct an amount equal to the entire cost for such remedial action, plus 25% from any funds due or to become due the Contractor on the Project.

7.18 Submittals

- A. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit required Submittals to City for review and acceptance in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.03).
1. Contractor shall submit the Submittals in accordance with Section 01 33 00 of the General Requirements.
 2. Data shown on the Submittals must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to demonstrate to City the services, materials, and equipment Contractor proposes to provide, and to enable City to review the information for the limited purposes required by Paragraph 7.18.C.
 3. Submittals reviewed and accepted by City for conformance with the design concept shall be executed in conformity with the Contract Documents unless otherwise required by City.
 4. When Submittals are submitted for the purpose of showing the installation in greater detail, their review shall not excuse Contractor from requirements shown on the Drawings and Specifications.
 5. For-Information-Only submittals upon which the City is not expected to conduct a review or take responsive action may be so identified in the Contract Documents.
 6. Contractor shall submit the required number of Samples specified in the Specifications.
 7. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which it is intended and other data as City may require to enable City to review the Submittal for the limited purposes set forth in Paragraph 7.18.C.
- B. Where a Submittal is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to City's review and acceptance of the pertinent submittal will be at the sole risk, expense and responsibility of Contractor.
- C. City's Review
1. City will provide timely review of Submittals in accordance with the accepted Schedule of Submittals. City's review and acceptance will be 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. City's review and acceptance will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence or procedure of construction is specifically and expressly called for by the Contract Documents), or to safety precautions or programs incident thereto.
 3. City's review and acceptance of a separate item as such will not indicate approval of the assembly in which the item functions.
 4. City's review and acceptance of a Submittal will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Section 01 33 00 of the General

Requirements, and City has given written acceptance of each such variation by specific written notation thereof incorporated in or accompanying the Submittal.

5. City's review and acceptance of a Submittal will not relieve Contractor from responsibility for complying with the requirements of the Contract Documents.
6. City's review and acceptance of a Submittal, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Time or Contract Price, unless such changes are included in a Change Order.
7. Neither City's receipt, review, or acceptance of a Submittal will result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in accepted Submittals, subject to the provisions of Section 01 33 00 of the General Requirements.

7.19 *Continuing the Work*

- A. Except as otherwise provided, Contractor shall carry on the Work and adhere to the Project Schedule during all disputes or disagreements with City. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as City and Contractor may otherwise agree in writing.

7.20 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to City that all Work will be in accordance with the Contract Documents and will not be defective. City and its officers, elected and appointed officials, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work 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 Contractor's warranty and guarantee under this Paragraph 7.20:
 1. Observations by Engineer or City;
 2. Recommendation by Engineer or payment by City of any progress or final payment;
 3. The issuance of a letter or certificate of Final Acceptance by City or any payment related thereto by City;
 4. Use or occupancy of the Work or any part thereof by City;
 5. Any review and acceptance of a Submittal by City;

6. Any inspection, test, or acceptance by others; or
 7. Any correction of defective Work by City.
- D. The Contractor shall remedy any defects or damages in the Work and pay for any damage to other work or property resulting therefrom which shall appear within a period of two (2) years from the date of Final Acceptance of the Work unless a longer period is specified. Contractor shall furnish a good and sufficient maintenance bond, complying with the requirements of Paragraph 6.02.B. The City will give notice of observed defects with reasonable promptness.

7.21 *Indemnification*

- A. **CONTRACTOR COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND, AT ITS OWN EXPENSE, THE CITY, ITS OFFICERS, ELECTED AND APPOINTED OFFICIALS, EMPLOYEES, AGENTS, CONSULTANTS AND SUBCONTRACTORS AND ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM , FROM AND AGAINST ANY AND ALL CLAIMS FOR PERSONAL OR BODILY INJURY OR DEATH, ARISING OUT OF OR RELATED TO, OR ALLEGED TO ARISE OUT OF OR BE RELATED TO, THE WORK AND SERVICES TO BE PERFORMED BY THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES OR INVITEES UNDER THESE CONTRACT DOCUMENTS. THIS INDEMNIFICATION PROVISION SHALL ONLY APPLY TO THE EXTENT THE ABOVE ARE CAUSED BY THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES OR INVITEES UNDER THIS CONTRACT. THIS INDEMNITY PROVISION IS INTENDED TO INCLUDE, WITHOUT LIMITATION, INDEMNITY FOR COSTS, EXPENSES AND LEGAL FEES INCURRED IN DEFENDING AGAINST SUCH CLAIMS AND CAUSES OF ACTIONS.**
- B. **CONTRACTOR COVENANTS AND AGREES TO INDEMNIFY AND HOLD HARMLESS, AT ITS OWN EXPENSE, THE CITY, ITS OFFICERS, ELECTED AND APPOINTED OFFICIALS, EMPLOYEES, AGENTS, CONSULTANTS AND SUBCONTRACTORS AND ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM FROM AND AGAINST ANY AND ALL LOSS, DAMAGE OR DESTRUCTION OF PROPERTY OF THE CITY, ARISING OUT OF OR RELATED TO, OR ALLEGED TO ARISE OUT OF OR BE RELATED TO, THE WORK AND SERVICES TO BE PERFORMED BY THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES OR INVITEES UNDER THIS CONTRACT. THIS INDEMNIFICATION PROVISION SHALL ONLY APPLY TO THE EXTENT THE ABOVE ARE CAUSED BY THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES OR INVITEES UNDER THIS CONTRACT.**

7.22 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, City will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Submittal related to the requirements indicated in Paragraph 7.22.B is prepared by Contractor, a Subcontractor, or others for submittal to City, then such Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to City.
- D. City 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 the conditions indicated in Paragraph 7.22.B, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.22, City's review, acceptance, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to the conditions indicated in Paragraph 7.22.B, will be only for the following limited purposes:
 - 1. Checking for conformance with the requirements of this Paragraph 7.22;
 - 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.

7.23 *Right to Audit*

- A. The City shall have the right to audit and make copies of the books, records and computations pertaining to the Contract. The Contractor shall retain such books, records, documents and other evidence pertaining to the Contract during the term of the Contract and for five years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents and other evidence shall be made available, in Denton County, Texas within ten (10) Business Days of City's written request. Further, the Contractor shall also require all Subcontractors, material suppliers, and other payees to retain all books, records, documents and other evidence pertaining to the Contract, and to allow the City similar access to those documents. All books and records will be made available within Denton County, Texas. Except as otherwise provided herein, the cost of the audit will be borne by the City

unless the audit reveals an overpayment of 1% or greater. If the City is undertaking an audit or inspection pursuant to Paragraph 7.09 or if an overpayment of 1% or greater occurs, the City's reasonable cost of the audit, including any travel costs, must be paid by the Contractor within five (5) Business Days of receipt of City's invoice for such costs.

- B. Failure to comply with the provisions of this section shall be a material breach of the Contract and shall constitute, in the City's sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents" and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document.

7.24 *Nondiscrimination*

- A. The City is responsible for operating Public Transportation Programs and implementing transit-related projects, funded in part with Federal financial assistance awarded by the U.S. Department of Transportation and the Federal Transit Administration (FTA), without discriminating against any person in the United States on the basis of race, color, or national origin.
- B. Contractor shall comply with the requirements of *Title VI, Civil Rights Act of 1964 as amended* and the regulations promulgated thereunder, as may be further defined in the Supplementary Conditions, for any project receiving Federal assistance.

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 City may perform other work at or adjacent to the Site. Such other work may be performed by City's employees, or through contracts between the City and third parties. City may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If City performs other work at or adjacent to the Site with City's employees, or through contracts for such other work, then City shall give Contractor written notice thereof prior to starting any such other work, if such other work is not noted in the Contract Documents.
- 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 City, if City is performing other work with City's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of City and the others whose work will be affected.
- E. If the proper execution 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 City in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with

Contractor's Work except for latent defects and deficiencies in such other work that could not have been discovered through a proper inspection.

- F. The provisions of this Article 8 are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with City, or that is performed without having been arranged by City. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.03.D.3.

8.02 *Coordination*

- A. If City 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 City's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or 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 Supplementary Conditions, City shall have authority for such coordination.

8.03 *Legal Relationships*

- A. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of City, any other contractor, or any utility owner performing other work at or adjacent to the Site.
 - 1. When City is performing other work at or adjacent to the Site with City's employees, Contractor shall be liable to City for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by City as a result of Contractor's failure to take reasonable and customary measures with respect to City's other work.
- B. 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 Damage 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, City, 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) indemnify, defend and hold harmless City and Engineer, and the officers, elected and appointed officials, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any 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 – CITY’S RESPONSIBILITIES**9.01 *Communications to Contractor***

- A. Except as otherwise provided in the Supplementary Conditions, City shall issue all communications to Contractor.

9.02 *Furnish Data*

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

9.03 *Pay When Due*

- A. City shall make payments to Contractor when they are due in accordance with and subject to the provisions of Article 14.

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

- A. City’s duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Article 5 refers to City’s identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by City in preparing the Contract Documents.

9.05 *Change Orders*

- A. City’s responsibilities with respect to Change Orders are set forth in Article 11.

9.06 *Inspections, Tests, and Approvals*

- A. City’s responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.02.DD.

9.07 *Limitations on City’s Responsibilities*

- A. The City 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. City will not be responsible for Contractor’s failure to perform the Work in accordance with the Contract Documents.

9.08 *Undisclosed Hazardous Environmental Condition*

- A. City’s responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.09 *Compliance with Safety Program*

- A. While at the Site, City’s employees and representatives shall comply with the specific applicable requirements of Contractor’s safety programs of which City has been informed in advance in writing pursuant to Paragraph 7.15.

ARTICLE 10 – CITY’S OBSERVATION DURING CONSTRUCTION**10.01** *City’s Project Manager or Duly Authorized Representative*

- A. City will provide a Project Manager or duly authorized representative during the construction period. The duties and responsibilities and the limitations of authority of City’s Project Manager or duly appointed representative during construction are set forth in the Contract Documents.
- B. City’s Project Manager for these Contract Documents is as set forth in the Supplementary Conditions. City will establish a duly authorized representative at the Preconstruction Meeting in accordance with Section 01 31 19 of the General Requirements.

10.02 *Visits to Site*

- A. City will make visits to the Site at intervals appropriate to the various stages of construction as City deems necessary in order to observe the progress that has been made and the quality of the various aspects of Contractor’s executed Work. Based on information obtained during such visits and observations, City will determine, in general, if the Work is proceeding in accordance with the Contract Documents. City will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. City’s efforts will be directed toward providing City a greater degree of confidence that the completed Work will conform generally to the Contract Documents.
- B. City’s visits and observations are subject to all the limitations on City’s responsibility set forth in Paragraph 99.07. Particularly, but without limitation, during or as a result of City’s visits or observations of Contractor’s Work, City will 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.

10.03 *Determinations for Work Performed*

- A. As applicable, Contractor will determine the actual quantities and classifications of Work performed.. City’s Project Manager or duly authorized representative will review with Contractor the preliminary determinations on such matters before rendering a written recommendation. City’s written decision will be final (except as modified to reflect changed factual conditions or more accurate data).

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

- A. City will be the interpreter of the requirements of the Contract Documents and judge the acceptability of the Work thereunder.
- B. City will render a written decision on any issue referred.
- C. City’s written decision on the issue referred will be final and binding on the Contractor, subject to the provisions of Paragraph 11.07.

ARTICLE 11 – CHANGES IN THE WORK; CLAIMS; EXTRA WORK**11.01 *Amending and Supplementing the Contract***

- A. The Contract may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof, including in the Contract Price or Contract Time, but such amendment will be made by Change Order only.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work not involving a change in Contract Price or Contract Time, may be authorized, by one of the following ways:
 - 1. A Field Order; or
 - 2. City's review of a Submittal (subject to the provisions of Paragraph 7.18.C); or
 - 3. City's written interpretation or clarification.

11.02 *Execution of Change Orders*

- A. City and Contractor shall execute appropriate Change Orders covering:
 - 1. Changes in the Contract Price or Contract Time which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed..
 - 2. Changes in the Work which are: (a) ordered by City pursuant to Paragraph 11.04, (b) required because of City's acceptance of defective Work under Paragraph 13.05 or City's correction of defective Work under Paragraph 13.08, or (c) as otherwise agreed to by the parties.

11.03 *Field Orders*

- A. City may authorize minor variations and deviations in changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Time and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on both the City and Contractor, which shall perform the Work involved promptly.

11.04 *Authorized Changes in the Work – Extra Work*

- A. Without invalidating the Contract and without notice to any surety, City may, at any time or from time to time, order Extra Work. Upon notice of such Extra Work, Contractor shall proceed with the Work involved only upon receiving written notice from City. Extra Work will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided). Extra Work shall be memorialized by a Change Order which may or may not precede an order of Extra Work.
- B. For minor changes of Work not requiring changes to Contract Time or Contract Price, a Field Order may be issued by City.

11.05 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any work performed that is not required by the Contract

Documents, as amended, modified, or supplemented as allowed herein, except in certain cases of an emergency as provided in Paragraph 7.17.A.

11.06 *Dispute of Extra Work*

- A. Should a difference arise as to what does or does not constitute Extra Work, or as to the payment for such Extra Work, and the City requires its performance, the Contractor shall proceed with the Extra Work after making written request for a Change Order and shall keep accurate account of the actual reasonable cost thereof. Contract Claims regarding Extra Work shall be made pursuant to Paragraph 11.07.
- B. The Contractor shall furnish the City such records of all deviations from the original Contract Documents as may be necessary to enable the City to prepare for permanent record a corrected set of plans showing the actual work performed.
- C. The compensation agreed upon for Extra Work whether or not initiated by a Change Order shall be the full, complete and final payment for all charges, fees and costs Contractor incurs as a result of or relating to the Extra Work, whether said charges, fees or costs are known, unknown, foreseen or unforeseen at that time, including without limitation, any charges, fees or costs for delay, extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of the Extra Work.

11.07 *Contract Claims Process*

- A. *City's Decision Required:* All Contract Claims, except those waived pursuant to Paragraph 14.08, shall be referred to the City for decision. A decision by City shall be required as a condition precedent to any exercise by Contractor of any rights or remedies he may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Contract Claims.
- B. *Notice:*
 - 1. Written notice stating the general nature of each Contract Claim shall be delivered by the Contractor to City no later than 15 days after the start of the event giving rise thereto. The responsibility to substantiate a Contract Claim shall rest with the party making the Contract Claim.
 - 2. Notice of the amount or extent of the Contract Claim, with supporting data shall be delivered to the City no later than 45 days after the start of the event giving rise thereto (unless the City notifies Contractor in writing that City will allow additional time for Contractor to submit additional or more accurate data in support of such Contract Claim).
 - 3. A Contract Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 11.08.
 - 4. A Contract Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of Paragraph 11.09.
 - 5. Each Contract Claim shall be accompanied by Contractor's written statement that the adjustment claimed is the entire adjustment to which the Contractor believes it is entitled as a result of said event.

6. The City shall submit any response to the Contractor within 30 days after receipt of the Contractor's last submittal (unless in connection with the Contract Claim (unless Contractor allows the City additional time to submit a response).
- C. *City's Action:* City will review each Contract Claim and, within 30 days after receipt of the last submittal of the Contractor unless action by City's Council is required, take one of the following actions in writing:
 1. deny the Contract Claim in whole or in part;
 2. approve the Contract Claim; or
 3. notify the Contractor that the City is unable to resolve the Contract Claim if, in the City's sole discretion, it would be inappropriate for the City to do so. For purposes of further resolution of the Contract Claim, such notice shall be deemed a denial.
- D. City's written action under this Paragraph 11.07 will be final and binding, unless City or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- E. No Contract Claim for an adjustment in Contract Price or Contract Time will be valid if not submitted in accordance with this Paragraph 11.07.
- F. If the City fails to take any action pursuant to this Paragraph 11.07, the Contract Claim is considered to have been denied by the City.

11.08 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order.
- B. TheThe value of any Work covered by a Change Order will 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 12.03);
 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum or unit price (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.08.C.2), and shall include the cost of any secondary impacts that are foreseeable at the time of pricing the cost of Extra Work; 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 or unit price, then on the basis of the Cost of the Work (determined as provided in Paragraph 12.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.08.C).
- C. *Contractor's Fee:* The Contractor's fee for overhead and profit will 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 12.01.B.1, 12.01.B.2, and 12.01.B.3, the Contractor's fee will be 15 percent except for:
 - 1) rental fees for Contractor's own equipment; and
 - 2) bonds and insurance;
- b. For costs incurred under Paragraph 12.01.B.4, the Contractor's fee will be 5 percent;
 - 1) 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 11.08.C.2.a and 11.08.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 12.01.B.1, 12.01.B.2, and 12.01.B.3 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, in no case shall the cumulative total of fees paid be in excess of 25% of the Cost of the Work;
- c. No fee will be payable on the basis of costs itemized under Paragraphs 12.01.B.5, 12.01.B.6, and 12.01.C;
- d. The amount of credit to be allowed by Contractor to City for any change which results in a net decrease in Cost of the Work will 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

11.09 *Change of Contract Time*

- A. The Contract Time may only be changed by a Change Order.
- B. No extension of the Contract Time will be allowed under a Change Order for Extra Work or for claimed delay unless the Extra Work contemplated or claimed delay is shown to be on the critical path of the Project Schedule or Contractor can show by critical path method analysis how the Extra Work or claimed delay adversely affects the critical path.
- C. Delay, disruption, and interference in the Work, and any related changes in Contract Time, are addressed in and governed by Paragraph 4.03.

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 Time), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted by the Contractor to reflect the effect of any such change.

ARTICLE 12 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK; PLANS QUANTITY MEASUREMENT**12.01 *Cost of the Work***

- A. *Purposes for Determination of Cost of the Work:* 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 below. The provisions of this Paragraph 12.01 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. 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:* The term, “Cost of the Work” means the sum of all costs, except those excluded in Paragraph 12.01.C, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work is covered by a Change Order, the costs reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work. Such costs shall be in amounts no higher than those calculated based on the prevailing wage rates contained in the Contract Documents, shall not include any of the costs itemized in Paragraph 12.01.C, and may include as applicable, but not be limited to 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 City and Contractor. Such employees shall include, without limitation, 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 will be apportioned on the basis of their time spent on the Work. Payroll costs shall 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 Business Days, during Weekend Working Hours, or on a state or federal holiday observed by the City, shall be included in the above to the extent authorized by City.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers’ field services required in connection therewith.
 3. Rentals of all construction equipment and machinery and the parts thereof, whether rented from Contractor or others, in accordance with rental agreements approved in writing by City, 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. and the Contract Documents. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

4. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by City, Contractor shall obtain competitive bids from subcontractors acceptable to City. Contractor shall deliver such bids to City, which will 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 will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 12.01 and Paragraph 11.08.C.
5. 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 and specifically included in the agreed upon schedule of job classifications referred to in Paragraph 12.01.B.1 or otherwise specifically included in the Contract.
6. Supplemental 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, and temporary office or facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations, excluding those taxes for which an exemption is available as described in Paragraph 7.12.
 - d. Deposits lost for causes other than the negligence or willful misconduct of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - e. 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, provided such losses and damages have resulted from causes other than the negligence or willful misconduct of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of CityCity. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - f. The cost of utilities, fuel, and sanitary facilities at the Site.
 - g. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - h. 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 for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 12.01.B.1 or otherwise specifically covered in the Contract. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 4. Costs due to the acts, omissions, negligence or willful misconduct of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 5. Other overhead or general expense costs of any kind.
- 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 Agreement will be determined as set forth in the Contract.
 - b. for any Work covered by a Change Order for an adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as set forth in Paragraph 11.08.C.
 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 for an adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.08.C.2.
- E. *Documentation and Audit*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 12, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices, and submit in a form acceptable to City an itemized cost breakdown together with supporting data. Subject to prior written notice, City will 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 three years after the final payment by City. Contractor will be responsible for ensuring that pertinent Subcontractors will afford such access to City, and preserve such documents, to the same extent as is required of Contractor.

12.02 Allowances

- A. *Specified Allowance*: It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to City.
- 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 will be valid.
- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of City.
- D. Prior to final payment, an appropriate Change Order will be issued to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

12.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work multiplied by the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by City subject to the provisions of Paragraph 10.03.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item. Work described in the Contract Documents, or reasonably inferred as required for a functionally complete installation, but not identified in the listing of unit price items shall be considered incidental to Unit Price Work listed and the cost of incidental work included as part of the unit price.
- D. Adjustments in Contract Price
 - 1. City may make an adjustment in the Contract Price in accordance with Paragraph 11.08 if:
 - a. the quantity of the item of Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 - b. there is no corresponding adjustment with respect to any other item of Work.
 - 2. Adjusted unit prices will apply to all units of that item.

- E. Increased or Decreased Quantities: The City reserves the right to order Extra Work in accordance with Paragraph 11.04.
1. If the changes in quantities or the alterations do not significantly change the character of the Work under the Contract Documents, the altered Work will be paid for at the Contract unit price.
 2. If the changes in quantities or alterations materially and significantly change the character of the Work, the Contract will be amended by a Change Order.
 3. If no unit prices exist, this any increase or decrease in quantities will be considered Extra Work and the Contract will be amended by a Change Order in accordance with Article 11.
 4. A significant change in the character of Work occurs when:
 - a. the character of work for any Item as altered differs materially or significantly in kind or nature from that in the Contract; or
 - b. a Major Item of work varies by more than 25% from the original Contract quantity.
 5. When the quantity of work to be done under any Major Item of the Contract is more than 125% of the original quantity stated in the Contract, then either party to the Contract may request an adjustment to the unit price on the portion of the work that is above 125%.
 6. When the quantity of work to be done under any Major Item of the Contract is less than 75% of the original quantity stated in the Contract, then either party to the Contract may request an adjustment to the unit price.

12.04 *Plans Quantity Measurement for Unclassified Excavation or Embankment*

- A. Plans quantities may or may not represent the exact quantity of Work performed or material moved, handled, or placed during the term of the Contract. The estimated bid quantities are designated as final payment quantities, unless revised in accordance with the Contract.
- B. If the total actual quantity measured for an individual item varies by more than 25% (or as stipulated under "Price and Payment Procedures" for specific Items) from the total estimated quantity for an individual Item originally shown in the Contract Documents, an adjustment may be made to the quantity of authorized Work done for payment purposes. The party to the Contract requesting the adjustment will provide field measurements and calculations showing the final quantity for which payment will be made. Payment for revised quantity will be made at the unit price bid for that Item, except as provided for in Article 11.
- C. When quantities are revised by a change in design approved by the City, by Change Order, or to correct an error, or to correct an error on the plans, the plans quantity will be increased or decreased by the amount identified in the approved change, and the 25% variance provisions of Paragraph 12.04.B will apply to the new plans quantity.
- D. If the total Contract quantity multiplied by the unit price bid for an individual Item is less than \$250 and the Item is not originally a plans quantity Item, then the Item may be paid as a plans quantity Item if the City and Contractor agree in writing to fix the final quantity as a plans quantity.

- E. For callout work or non-site specific Contracts, the plans quantity measurement requirements are not applicable.

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

13.01 *Access to Work*

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

13.02 *Tests and Inspections*

- A. Contractor shall give City 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. If the Contract Documents or any Laws and Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish City the required certificates of inspection, testing or approval, except that those fees specifically identified in the Supplementary Conditions or any Texas Department of Licensure and Regulation (TDLR) inspections, which shall will be paid as described in the Supplementary Conditions.
- C. Contractor shall be responsible for arranging, obtaining, and paying for all inspections, tests, re-tests, and approvals required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to City;
 - 2. to attain City'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 will be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to City.

- D. City may arrange for the services of an independent testing laboratory ("Testing Lab") to perform any inspections or tests ("Testing") for any part of the Work, as determined solely by City.
 - 1. City will coordinate such Testing to the extent possible, with Contractor;

2. Should any Testing under this Section 13.03.D result in a “fail”, “did not pass” or other similar negative result, the Contractor shall be responsible for paying for any and all retests. Contractor’s cancellation without cause of City initiated Testing shall be deemed a negative result and require a retest.
 3. Any amounts owed for any retest under this Section 13.02.D shall be paid directly to the Testing Lab by Contractor. City will forward all invoices for retests to Contractor.
 4. If Contractor fails to pay the Testing Lab, City will not issue Final Payment until the Testing Lab is paid.
- E. If the Contract Documents require the Work (or part thereof) to be approved by City or another designated individual or entity, then Contractor shall assume full responsibility for seeking 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 the written approval of City, Contractor shall, if requested by City, uncover such Work for observation. Such uncovering and the recovering of such Work will be at Contractor’s expense.

13.03 *Defective Work*

- A. *Contractor’s Obligation:* It is Contractor’s obligation to assure that the Work is not defective.
- B. *City’s Authority:* City has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Written notice of all defective Work of which City has actual knowledge will 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 City has rejected the defective Work, shall remove the defective Work from the Project and replace it with Work that is not defective. Failure to require the removal of any defective Work shall not constitute acceptance of such Work.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair City’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 Contractor or City by governmental authorities because the Work is defective, and the costs of repair, replacement or reconstruction of work of others resulting from defective Work.

13.04 *Rejecting Defective Work*

- A. City will have authority to reject Work which City believes to be defective or will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. City will have authority to conduct special inspection or testing

of the Work as provided in this Article 13, whether or not the Work is fabricated, installed, or completed.

13.05 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, City prefers to accept it, City may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to City'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 Acceptance, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and City shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of the Work so accepted.

13.06 *Uncovering Work*

- A. City 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 Contract Documents or specific instructions of City and if requested by City, Contractor shall uncover such Work for City's observation, inspection or testing and then replace the covering, all at Contractor's expense.
- C. If City considers it necessary or advisable that covered Work be observed by City or inspected or tested by others, then Contractor, at City's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as City may require, 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 (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others). City shall be entitled to accept defective Work in accordance with Paragraph 13.05 and in such case Contractor shall still be responsible for all costs associated with exposing, observing, and testing defective Work.
 - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an extension of the Contract Time to the extent directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction.

13.07 *City May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or Contractor fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then City may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been corrected or eliminated; however, this right of City to stop the Work will not give rise to any duty on the part of City to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or any employee or agent of, any of them.

13.08 City May Correct Defective Work

- A. If Contractor fails within a reasonable time after written notice from City to correct defective Work, or to remove and replace defective Work as required by City, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then City may, after providing 7 days' advance written notice to Contractor, correct or remedy any such deficiency.
- B. In connection with such corrective or remedial action, City 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 City has paid Contractor but which are stored elsewhere. Contractor shall allow City, City's representatives, agents and employees, and City's other contractors access to the Site to enable City to exercise the rights and remedies under this Paragraph 13.08.
- C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court, or arbitration or other dispute resolution costs) incurred or sustained by City in exercising the rights and remedies under this Paragraph 13.08 will be the responsibility of and will be charged against Contractor. A Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and City shall be entitled to an appropriate decrease in the Contract Price. Such claims, costs, losses and damages will include, but not be limited to, all costs of repair or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Time because of any delay in the performance of the Work attributable to the exercise by City of City's rights and remedies under this Paragraph 13.08.

ARTICLE 14 – PAYMENTS TO CONTRACTOR; COMPLETION; CORRECTION PERIOD**14.01 Progress Payments**

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Paragraph 2.03 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to City. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 12.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. Applications for Payments
 - 1. Contractor is responsible for providing all information as required to become a vendor of the City.
 - 2. At least 20 days before the date established in the General Requirements for each progress payment (but not more often than once a month), Contractor shall submit to City 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.

3. 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 must also be accompanied by: (a) bill of sale, invoice, or purchase order payments, copies of cancelled checks or other documentation establishing full payment by Contractor for the materials and equipment; (b) at City's request, documentation warranting that City 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, or other arrangements to protect City's interest therein, all of which must be satisfactory to City.
4. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received on account of the Work by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
5. The amount of retainage with respect to progress payments will be as stipulated in the Contract Documents.

C. Review of Applications

1. City will, after receipt of each Application for Payment, either indicate in writing it will proceed to process the Application for Payment or return the Application to Contractor indicating reasons for refusing payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. City's processing of any payment requested in an Application for Payment will be based on City's observations of the executed Work, and on City's review of the Application for Payment and the accompanying data and schedules, that based City's actual knowledge:
 - a. the Work has progressed to the point indicated; and
 - b. the quality and/or quantity of the Work is generally in accordance with the Contract Documents (subject to any subsequent evaluations of the Work, an evaluation of the Work as a functioning whole prior to or upon Final Acceptance, the results of any subsequent tests or inspections called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraphs 10.05 and 12.03, and any other qualifications stated).
3. Processing any such payment will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work; or
 - b. there are no other matters or issues between the parties that might entitle Contractor to be paid additionally by City or entitle City to withhold payment to Contractor; or
 - c. Contractor has complied with Laws and Regulations applicable to Contractor's performance of the Work.
4. City may refuse to process or pay the whole or any part of any payment because of subsequently discovered evidence or the results of subsequent inspections or tests, and

may revise or revoke any such payment previously made, to such extent as may be necessary to protect City from loss because:

- a. the Work is defective, or the completed Work has been damaged by the Contractor or his subcontractors, requiring correction or replacement;
- b. there are discrepancies in quantities contained in previous applications for payment;
- c. the Contract Price has been reduced by Change Orders;
- d. City has been required to correct defective Work in accordance with Paragraph 1313.08, or has accepted defective Work pursuant to Paragraph 13.05;
- e. City has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
- f. City has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. Retainage:

1. For all contracts, retainage shall be five percent (5%).

E. *Liquidated Damages*: For each calendar day that any work shall remain uncompleted after the time specified in the Contract Documents, the sum per day specified in the Agreement will be paid by the Contractor to the City, not as a penalty, but as liquidated damages suffered by the City. If feasible, the parties may agree to have the liquidated damages deducted from any amounts owned to Contractor by City instead of being paid directly to City by Contractor.

F. *Payment*: Contractor will be paid pursuant to the requirements of this Article 14 and payment will become due in accordance with the Contract Documents.

G. Reduction in Payment

1. City may refuse to make payment of the of the amount requested because:
 - a. Claims have been made against City based on Contractor's performance or furnishing of the Work, or City has incurred costs, losses, or damages resulting from Contractor's 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. City has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. City 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. City has been required to correct defective Work in accordance with Paragraph 13.08, or has accepted defective Work pursuant to Paragraph 13.05;
 - 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 for cause;
 - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones or Final Acceptance of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to City to secure the satisfaction and discharge of such Liens;
 - l. Other items entitle City to a set-off against the payment amount requested; or
 - m. City has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.
2. If City refuses to make payment of the amount requested, City will give Contractor written notice stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. City shall pay Contractor the amount so withheld, or any adjustment thereto agreed to by City and Contractor, within a reasonable time after Contractor remedies the reasons for such action to the satisfaction of City and City has confirmed such action.

14.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to City no later than the time of payment free and clear of all Liens.

14.03 *Partial Utilization*

- A. Prior to Final Acceptance of all the Work, City may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which City determines constitutes a separately functioning and usable part of the Work that can be used by City for its intended purpose without significant interference with Contractor's performance of the remainder of the Work. City at any time may notify Contractor in writing to of any such part of the Work which City determines to be ready for its intended use. In addition, City may request in writing that Contractor permit City to use or occupy any such part of the Work that City believes to be substantially complete, subject to the following conditions:
- 1. At any time, Contractor may notify City that Contractor considers any such part of the Work ready for its intended use.
 - 2. Within a reasonable time after notification as enumerated in Paragraph 14.03, City and Contractor shall make an inspection of that part of the Work to determine its status of completion. If City does not consider that part of the Work to be substantially complete, City will notify Contractor in writing giving the reasons therefor.
 - 3. Partial Utilization by City will not constitute Final Acceptance by City.

14.04 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work is complete in accordance with the Contract Documents:
 - 1. City will promptly schedule a Final Inspection with Contractor.
 - 2. City will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.
- B. City reserves the right to deny request for Final Inspection if City determines that the entire Work is not sufficiently complete to warrant a Final Inspection.

14.05 *Final Acceptance*

- A. Upon completion by Contractor to City's satisfaction, of any and all Work in accordance with the Contract Documents, including any corrections or additional Work identified in the Final Inspection and delivery of all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurances, certificates of inspection, annotated record documents and other required documents in accordance with the Contract Documents, City will issue to Contractor a letter of Final Acceptance.

14.06 *Final Payment*

- A. Application for Payment
 - 1. Upon receipt of a letter of Final Acceptance from City, Contractor may make application for Final Payment following the procedures for requesting payments in accordance with the Contract Documents.
 - 2. The final Application for Payment must be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 6.03;
 - b. consent of the surety, if any, 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 City free and clear of any Liens or other title defects or will so pass upon final payment.
 - d. a list of all Contract Claims or Damage Claims against City that Contractor believes are unsettled; and
 - e. affidavits of payments and complete and legally effective releases or waivers (satisfactory to City) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
- B. Payment Becomes Due: The final payment requested by Contractor, less previous payments made and less any sum to which City is entitled, including but not limited to liquidated damages, will become due and payable:
 - 1. After City's acceptance of the Application for Payment and accompanying documentation; and

2. After all Damage Claims have been resolved:

- a. directly by the Contractor; or
- b. Contractor provides evidence that the Damage Claim has been reported to Contractor's insurance provider for resolution.

The making of the final payment by the City shall not relieve the Contractor of any guarantees or other requirements of the Contract that continue thereafter.

14.07 *Final Completion Delayed and Partial Retainage Release*

- A. If final completion of the Work is significantly delayed, and if City so confirms, City may, upon receipt of Contractor's final Application for Payment, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by City for Work not fully completed or corrected is less than the retainage stipulated in Paragraph 14.01.D, and if bonds have been furnished as required in Paragraph 6.02, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to City with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Contract Claims.
- B. *Partial Retainage Release.* If the Contract provides for separate establishment and maintenance periods and/or test and performance periods following the completion of all other construction in the Contract Documents for all Work locations, the City may release a portion of the amount retained provided that all other work is completed as determined by the City. Before the release, all submittals and final quantities must be completed and accepted for all other work. An amount sufficient to ensure Contract compliance will be retained.

14.08 *Waiver of Claims*

- A. The acceptance of final payment will constitute a waiver and release by Contractor of all claims, rights, causes of action, or liabilities, including Contract Claims, against City arising out of, related to or under the Contract or for any act, omission or neglect of City.

14.09 *Correction Period*

- A. If within two (2) years after the date of Final Acceptance (or such longer period of time as may be prescribed by the Contract Documents) any Work has been found to be defective, or Contractor's repair of any damages to the Site, adjacent areas, or areas made available for Contractor's use by City has been found to be defective, then after receipt of City's written notice of defect, Contractor shall promptly, without cost to City and in accordance with City's written instructions:
 1. correct the defective repairs to the Site or such adjacent areas, or areas made available for Contractor's use by City;
 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 City, 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. If Contractor does not promptly comply with the terms of City's written instructions, or in an emergency where delay would cause serious risk of loss or damage, City 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).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Final Acceptance of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected, repaired or removed and replaced under this Paragraph 14.09, the correction period hereunder with respect to such Work may be extended for an additional period of one year after the end of the initial correction period.
- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this Paragraph 14.09 are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *City May Suspend Work*

- A. At any time and without cause, City may suspend the Work or any portion thereof by written notice to Contractor. City may fix the date on which Work will be resumed in such notice, and Contractor shall resume the Work on the date so fixed. During a temporary suspension of the Work covered by these Contract Documents, for any reason, the City will make no extra payment for stand-by time of construction equipment and/or construction crews.
- B. Should the Contractor not be able to complete a portion of the Project due to causes beyond the control of and without the fault or negligence of the Contractor, and should it be determined by mutual consent of the Contractor and City that a solution to allow construction to proceed is not available within a reasonable period of time, Contractor may request an extension in Contract Time, directly attributable to any such suspension.
- C. If it should become necessary to suspend the Work for an indefinite period, the Contractor shall store all materials in such a manner that they will not obstruct or impede the public unnecessarily nor become damaged in any way; Contractor shall take every precaution to prevent damage or deterioration of the work performed; and Contractor shall provide suitable drainage about the work, and erect temporary structures where necessary.
- D. Contractor may be reimbursed for the cost of moving its equipment off the job and returning the necessary equipment to the job when it is determined by the City that construction may be resumed. Such reimbursement shall be based on actual cost to the Contractor of moving the

equipment and no profit or overhead will be allowed. Reimbursement may not be allowed if the equipment is moved to another construction project for the City.

15.02 *City May Terminate for Cause*

- A. The occurrence of any one or more of the following events by way of example, but not of limitation, may justify termination for cause:
1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Project Schedule established under Paragraph 2.06 as adjusted from time to time pursuant to Paragraph 7.05);
 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract; or
 3. Contractor's disregard of Laws and Regulations of any public body having jurisdiction; or
 4. Contractor's repeated disregard of the authority of City; or
 5. Contractor's failure to promptly make good any defect in materials or workmanship, or defects of any nature, the correction of which has been directed in writing by the City; or
 6. Substantial indication that the Contractor has made an unauthorized assignment of the Contract or any funds due therefrom for the benefit of any creditor or for any other purpose; or
 7. Substantial indication that the Contractor has become insolvent or bankrupt, or otherwise financially unable to perform the Work satisfactorily; or
 8. Contractor commences legal action in a court of competent jurisdiction against the City.
- B. If one or more of the events identified in Paragraph 15.02.A occurs, City will provide written notice to Contractor and Surety to arrange a conference with Contractor and Surety to address Contractor's failure to perform the Work. The conference shall be held not later than 15 days after receipt of notice. by both Contractor and surety.
1. If the City, the Contractor, and the Surety do not agree to allow the Contractor to proceed to perform the Contract, the City may, to the extent permitted by Laws and Regulations, declare a Contractor default and formally terminate the Contractor's right to complete the Contract. Contractor default shall not be declared earlier than 20 days after the Contractor and Surety have received notice of the conference to address Contractor's failure to perform the Work.
 2. If Contractor's services are terminated, Surety shall be obligated to take over and perform the Work. If Surety does not commence performance thereof within 15 consecutive calendar days after date of an additional written notice demanding Surety's performance of its obligations, then City, without process or action at law, may take over any portion of the Work and complete it as described below.
 - a. If City completes the Work, City may exclude Contractor and Surety from the Site and take possession of the Work, and all materials and equipment stored at the Site

or for which City has paid Contractor, but which are stored elsewhere, and the Work as City may deem expedient.

3. Whether City or Surety completes the Work, 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 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 City, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to City. Such claims, costs, losses, and damages incurred by City will be incorporated in a Change Order, provided that when exercising any rights or remedies under this Paragraph 15.02, City shall not be required to obtain the lowest price for the Work performed.
 4. Neither City, nor any of its respective consultants, agents, officers, elected or appointed officials, directors or employees shall be in any way liable or accountable to Contractor or Surety for the method by which the completion of the said Work, or any portion thereof, may be accomplished or for the price paid therefor.
 5. City, notwithstanding the method used in completing the Contract, shall not forfeit the right to recover damages from Contractor or Surety for Contractor's failure to timely complete the entire Contract. Contractor shall not be entitled to any claim, counterclaim or offset on account of the method used by City in completing the Contract.
 6. Maintenance of the Work shall continue to be Contractor's and Surety's responsibilities as provided for in the bond requirements of the Contract Documents or any special guarantees provided for under the Contract Documents or any other obligations otherwise under the Contract or prescribed by law.
- C. Notwithstanding Paragraph 15.02.B, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- D. Where Contractor's services have been so terminated by City, the termination will not affect any rights or remedies of City against Contractor then existing or which may thereafter accrue, or any rights or remedies of City against Contractor or Surety. Any retention or payment of money due Contractor by City will not release Contractor from liability.
- E. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.02, the termination procedures of that bond shall not supersede the provisions of this Article 15.

15.03 *City May Terminate for Convenience*

- A. City may, without cause and without prejudice to any other right or remedy of City, terminate the Contract, in whole or in part. Any termination shall be affected by giving notice of the termination to the Contractor specifying the extent to which performance of Work under the contract is terminated, and the date upon which such termination becomes effective. Notice shall be deemed validly given if given in accordance with Paragraph 17.01.A.

- B. After a notice of termination, has been given, and except as otherwise directed by the City, the Contractor shall:
1. stop work under the Contract on the date and to the extent specified in the notice of termination;
 2. place no further orders or subcontracts for materials, services or facilities except as may be necessary for completion of such portion of the Work under the Contract as is not terminated;
 3. terminate all orders and subcontracts to the extent that they relate to the performance of the Work terminated by notice of termination;
 4. transfer title to the City and deliver in the manner, at the times, and to the extent, if any, directed by the City:
 - a. the fabricated or unfabricated parts, Work in progress, completed Work, supplies and other material produced as a part of, or acquired in connection with the performance of, the Work terminated by the notice of the termination; and
 - b. the completed, or partially completed plans, drawings, information and other property which, if the Contract had been completed, would have been required to be furnished to the City.
 5. complete performance of such Work as shall not have been terminated by the notice of termination; and
 6. take such action as may be necessary, or as the City may direct, for the protection and preservation of the property related to the Contract that is in the possession of the Contractor and in which the City has or may acquire the rest.
- C. At a time not later than 30 days after the termination date specified in the notice of termination, the Contractor may submit to the City a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of in accordance with the Contract, exclusive of items the disposition of which has been directed or authorized by City.
- D. Not later than 15 days after Contractor's submission of the certified list to City pursuant to Paragraph 15.03.C, the City shall accept title to such items, subject to verification of the list by the City upon removal of the items or, If the items are stored, then City shall have 45 days after submission of the list, to verify the list submitted and accept title to such items. Any necessary adjustments to correct the list as submitted, shall be made prior to final settlement.
- E. Not later than 60 days after the notice of termination has been given, the Contractor shall submit his termination claim to the City in the form and with the certification prescribed by the City. Unless an extension request is made in writing within such 60-day period by the Contractor, and granted by the City, any and all such claims of Contractor that are not submitted to City within such 60-day period shall be conclusively deemed waived.
- F. Should a termination claim be timely submitted to the City, Contractor shall be paid for (without duplication of any items):
1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead

- and profit on such Work calculated and determined in accordance with the Contract Documents;
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 calculated and determined in accordance with the Contract Documents; and
 3. reasonable expenses directly attributable to reasonable and necessary wind-down and termination activities, without any overhead or profit.
- G. In the event of the failure of the Contractor and City to agree upon the whole amount to be paid to the Contractor by reason of the termination of the Work, the City shall determine, on the basis of information submitted and available to it, the amount, if any, due to the Contractor by reason of the termination and City shall pay to the Contractor the amounts so determined. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of, related to or resulting from such termination.

ARTICLE 16 – RESOLUTION OF DISPUTES

16.01 *Methods and Procedures*

- A. Either City or Contractor may request mediation of any Contract Claim submitted for a decision under Paragraph 11.07 before such decision becomes final and binding. The request for mediation shall be submitted to the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 11.07.E.
- B. City and Contractor shall participate in the mediation process in good faith. The process shall be commenced within 60 calendar days of filing of the request.
- C. The parties shall agree on a mediator; however, if they cannot agree within 14 calendar days then the Denton County Alternative Dispute Resolution Program (“DCAP”) shall appoint a mediator. The mediation session shall be held within 45 days of the retention of the mediator, and last for at least one full mediation day, before any party has the option to withdraw from the process. The parties may agree to continue the mediation process beyond one day, until there is a settlement agreement, or one party, or the mediator, states that there is no reason to continue because of an impasse that cannot be overcome and sends a “notice of termination of mediation.” All reasonable efforts will be made to complete the mediation within 30 days of the first mediation session. All costs of mediation shall be borne equally by the parties.
- D. All communications, both written and oral, during Phases A and B are confidential and shall be treated as settlement negotiations for purposes of applicable rules of evidence; however, documents generated in the ordinary course of business prior to the Dispute, that would otherwise be discoverable, do not become confidential simply because they are used in the Negotiation and/or Mediation process.
- E. The process shall be confidential based on terms acceptable to the mediator and/or mediation service provider.

- F. If the Contract Claim is not resolved by mediation, City's action under Paragraph 11.07.C or a denial pursuant to Paragraphs 11.07.C.3 or 11.07.D shall become final and binding 30 days after termination of the mediation unless, within that time period, City or Contractor:
1. elects in writing to invoke any other dispute resolution process provided for in the Supplementary Conditions; or
 2. agrees with the other party to submit the Contract Claim to another dispute resolution process; or
 3. gives written notice to the other party of the intent to submit the Contract Claim to a court of competent jurisdiction as set forth within the Contract Documents.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

- A. Whenever any provision of the Contract requires the giving of written notice, it will be deemed to have been validly given if delivered:
1. in person, by a commercial courier service or otherwise, if to City, to the duly authorized representative of City identified in the Contract Documents or to City's Project Manager or, if to Contractor, to a member of the firm or to an officer of the corporation for whom it is intended; or
 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
 3. by e-mail to the recipient.

17.02 *Computation of Time*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day that is a state or federal holiday observed by the City, the next Business Day shall become the last day of the period.

17.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws and Regulations, in equity, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this Paragraph 17.03 will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Limitation of Damages*

- A. With respect to any and all claims, disputes subject to final resolution, and other matters at issue, neither City, nor any of its officers, directors, elected or appointed officials, members, partners, employees, agents, 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. Further, the Contractor may only claim and the City may only be liable for those damages that are set forth in Subchapter I, Chapter 271 of the Texas

Local Government Code and the City shall not be liable for any consequential damages, exemplary damages or damages for unabsorbed home office overhead.

17.05 *No Waiver*

- A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.
- B. The City has not waived its sovereign immunity except as expressly set forth in Subchapter I, Chapter 271 of the Texas Local Government Code or as expressly waived by other statute.

17.06 *Survival of Obligations*

All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and Final Acceptance of the Work or termination of the Contract or of the services of Contractor.

17.07 *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 will be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

17.08 *Successors and Assigns*

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

17.09 *Governing Law*

- A. The Contract shall be construed in accordance with the laws of the State of Texas without regard to conflicts of law principles.

17.10 *Headings*

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

SECTION 00 73 01
SUPPLEMENTARY CONDITIONS - CSP
TO
GENERAL CONDITIONS

Supplementary Conditions

These Supplementary Conditions modify and supplement Section 00 72 00 - General Conditions, and other provisions of the Contract Documents as indicated below. All provisions of the General Conditions that are modified or supplemented remain in full force and effect as so modified or supplemented. All provisions of the General Conditions which are not so modified or supplemented remain in full force and effect.

Defined Terms

The terms used in these Supplementary Conditions which are defined in the General Conditions have the meaning assigned to them in the General Conditions, unless specifically noted herein.

Modifications and Supplements

The following are instructions that modify or supplement specific paragraphs in the General Conditions and other Contract Documents.

SC-1.01 "Defined Terms"

The following Terms listed in the General Conditions are modified as follows:

Bid – See Proposal.

Bidder – See Offeror.

Bidding Documents – See Proposal Documents.

Bidding Requirements – See Proposal Requirements.

The following Terms are added to the General Conditions as follows:

Competitive Sealed Proposals – A procurement method by which a governmental entity requests proposals, evaluates and ranks the Offerors, and negotiates a contract with a general contractor for the construction, rehabilitation, alteration, or repair of a facility.

Daily Value – The City-determined value in dollars as indicated in the Proposal Form as the value of one Day for the purposes of determining the Incentive (if applicable) for Substantial Completion relative to the Contract Time and achievement of Substantial Completion.

Offeror – The individual or entity that submits a Proposal directly to City.

Proposal – The offer or proposal of an Offeror submitted in accordance with the requirements set forth in the Instructions to Offerors.

Proposal Documents – The Proposal Requirements and the Proposed Contract Documents.

Proposal Requirements – The Advertisement or Invitation to Offerors, Instructions to Offerors, Offeror’s Bond or other Proposal security, if any, the Proposal Form, and the Proposal with any attachments.

Substantial Completion – The completion of the Work necessary for the project to function as it was intended pursuant to the Contract Documents and as specified below, to the reasonable satisfaction of the City. The date of Substantial Completion shall be memorialized by written notice given by the City to the Contractor.

SC-5.01A, “Availability of Lands”

Easement limits shown on the Drawing are approximate and were provided to establish a basis for proposals. Upon receiving the final easements descriptions, Contractor shall compare them to the lines shown on the Contract Drawings.

5.01A., City Property Available for a Concrete Batch Plant

The following location is available for a Concrete Batch Plant:

PARCEL NUMBER	ADDRESS	LOCATION
334545	4111 Vintage Blvd	Behind Denton PD Substation Accessible from Bonnie Brae (see exhibit APPENDIX GC 5.01A)

The Contractor understands and agrees that use of the existing batch plant pad site, owned by the City of Denton is subject to the requirements of City Specifications 41 14 00 – Batching Equipment, as well as the following:

Pre-construction video of site	No project spoil piles
Maintain clean access area (street sweeping as needed)	Lock/Secure site when not in use

Prohibit fully loaded trucks on Old Bonnie Brae Rd (see exhibit APPENDIX GC 5.01A)

5.01A.1, Outstanding Right-Of-Way, and/or Easements to Be Acquired

The following is a list of known outstanding right-of-way, and/or easements to be acquired, if any as of April 10, 2023:

PARCEL NUMBER	OWNER	TARGET DATE OF POSSESSION
None		

The Contractor understands and agrees that the dates listed above are estimates only, are not guaranteed, and do not bind the City.

If Contractor considers the final easements provided to differ materially from the representations on the Contract Drawings, Contractor shall within five (5) Business Days and before proceeding with the Work, notify City in writing associated with the differing easement line locations.

SC-5.01A.2, Utilities or obstructions to be removed, adjusted, and/or relocated

The following is list of utilities and/or obstructions that have not been removed, adjusted, and/or relocated as of April 10, 2023:

EXPECTED OWNER	UTILITY AND LOCATION	TARGET DATE OF ADJUSTMENT
KCS Railroad	At Grade Panels & Signals	TBD-Will coordinate w/road work
En-Link Gas	Lowering/relocations of 3 & 4 inch gas lines	Q3-2023

The Contractor understands and agrees that the dates listed above are estimates only, are not guaranteed, and do not bind the City.

SC-5.03A., "Subsurface and Physical Conditions"

The following are reports of explorations and tests of subsurface conditions at the site of the Work:

A Geotechnical Report No. 1703; dated February 22, 2012, prepared by Landtec Engineers, a sub-consultant of Graham Associates, Inc., a consultant of the City, providing additional information on the pavement design and geotechnical borings and report for the project. (see APPENDIX)

The following are drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the site of the Work:
None

SC-5.05 A., "Underground Facilities"

The following are additional resources for identification of Underground Facilities which are at or contiguous to the site of the Work, and which are not necessarily shown in the Drawings:

Atmos gas construction plans designed by Half Truex	Enlink Gas Construction Plans
Oncor Electric Pole relocations	Grande Communications near FM 1515
DME Underground construction near UNT	
North South Water Phase 2 – 36 & 42-Inch Water Transmission Main	

SC-5.06A., "Hazardous Environmental Conditions at Site"

The following are reports and drawings of existing hazardous environmental conditions known to the City:
None

SC-6.02, "Performance, Payment, and Maintenance Bonds"

The "Contract Price" for Performance, Payment, and Maintenance Bonds will be the same as indicated in Article 3 as listed in the Agreement.

SC-6.03A., "Certificates of Insurance"

The entities listed below are "additional insureds as their interest may appear" including their respective officers, directors, agents and employees.

- (1) City
- (2) Consultant: None

(3) Other: KSC Railroad; University of North Texas (UNT) specifically the portion of work related to the Electrical Duct Bank installation on UNT property

SC-6.04A., “Contractor’s Insurance”

The limits of liability for the insurance required by Paragraph GC-6.04 shall provide the following coverages for not less than the following amounts or greater where required by laws and regulations:

6.04A. Workers' Compensation, under Paragraph GC-6.04A.

Statutory limits

Employer's liability

\$500,000 each accident/occurrence

\$500,000 Disease - each employee

\$500,000 Disease - policy limit

SC-6.04B., “Contractor’s Insurance”

6.04B. Commercial General Liability, under Paragraph GC-6.04B. Contractor's Liability Insurance under Paragraph GC-6.04B., which shall be on a per project basis covering the Contractor with minimum limits of:

\$2,000,000 each occurrence

\$4,000,000 aggregate limit

The policy shall include endorsement CG2503 Amendment of limits (designated project or premises) in order to extend the policy’s limits specifically to the project in question.

The Commercial General Liability Insurance policies shall provide “X”, “C”, and “U” coverages. Verification of such coverage must be shown in the Remarks Article of the Certificate of Insurance.

The Completed Operations coverage must be maintained for a minimum of one (1) year after final completion and acceptance of the Work, with evidence of same filed with the City of Denton.

SC 6.04C., “Contractor’s Insurance”

6.04C. Automobile Liability, under Paragraph GC-6.04C. Contractor’s Liability Insurance under Paragraph GC-6.04C., which shall be in an amount not less than the following amounts:

- (1) **Automobile Liability** - a commercial business policy shall provide coverage on "Any Auto", defined as autos owned, hired and non-owned.

\$1,000,000 each accident on a combined single limit basis

SC-6.04E., “Contractor’s Insurance”

The Contractor’s construction activities will require its employees, agents, subcontractors, equipment, and material deliveries to cross railroad properties and tracks, or perform work within 25 feet of the center line of tracks owned and operated by KSC Railroad.

The Contractor shall conduct its operations on railroad properties in such a manner as not to interfere with, hinder, or obstruct the railroad company in any manner whatsoever in the use or operation of its/their trains or other property. Such operations on railroad properties may require that Contractor to execute a "Right of Entry Agreement" with the particular railroad company or companies involved, and to this end the Contractor should satisfy itself as to the requirements of each railroad company and be prepared to execute the right-of-entry (if any) required by a railroad company. The requirements specified herein likewise relate to the Contractor's use of private and/or construction access roads crossing said railroad company's properties.

The Contractual Liability coverage required by Paragraph 5.04D of the General Conditions shall provide coverage for not less than the following amounts, issued by companies satisfactory to the City and to the Railroad Company for a term that continues for so long as the Contractor's operations and work cross, occupy, or touch railroad property:

(1) General Aggregate: \$6,000,000

(2) Each Occurrence: \$2,000,000

X Required for this Contract ___ Not required for this Contract

With respect to the above outlined insurance requirements, the following shall govern:

1. Where a single railroad company is involved, the Contractor shall provide one insurance policy in the name of the railroad company. However, if more than one grade separation or at-grade crossing is affected by the Project at entirely separate locations on the line or lines of the same railroad company, separate coverage may be required, each in the amount stated above.
2. Where more than one railroad company is operating on the same right-of-way or where several railroad companies are involved and operated on their own separate rights-of-way, the Contractor may be required to provide separate insurance policies in the name of each railroad company.
3. If, in addition to a grade separation or an at-grade crossing, other work or activity is proposed on a railroad company's right-of-way at a location entirely separate from the grade separation or at-grade crossing, insurance coverage for this work must be included in the policy covering the grade separation.
4. If no grade separation is involved but other work is proposed on a railroad company's right-of-way, all such other work may be covered in a single policy for that railroad, even though the work may be at two or more separate locations.

No work or activities on a railroad company's property to be performed by the Contractor shall be commenced until the Contractor has furnished the City with an original policy or policies of the insurance for each railroad company named, as required above. All such insurance must be approved by the City and each affected Railroad Company prior to the Contractor's beginning work.

The insurance specified above must be carried until all Work to be performed on the railroad right-of-way has been completed and the grade crossing, if any, is no longer used by the Contractor. In addition, insurance must be carried during all maintenance and/or repair work performed in the railroad right-of-way. Such insurance must name the railroad company as the insured, together with any tenant or lessee of the railroad company operating over tracks involved in the Project.

SC 6.04F., “Environmental Impairment/Pollution”

Environmental Impairment/Pollution Insurance to include coverage for the handling, receiving, dispensing, removal, storage, testing, transportation, disposal, discharge, dispersal release or escape of any hazardous material into or upon land, or any structure on land, the atmosphere or any watercourse or body of water, including ground water, with a minimum combined bodily injury (including death) and property damage limit of \$2,000,000 per occurrence to be obtained upon substantial completion and acceptance of facility by the City.

SC-7.08C., “Concerning Subcontractors and Suppliers”

The following subcontractors shall be required to be utilized by the Contractor for specific portions of the Work as indicated below:

Required Subcontractors

SUBCONTRACTOR COMPANY NAME	DESCRIPTION OF WORK TO BE PERFORMED
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None	
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SC-7.11., “Permits and Utilities”**SC-7.11A., “Contractor obtained permits and licenses”**

The following are known permits and/or licenses required by the Contract to be acquired by the Contractor:

KCS Railroad:

1. A Right of Entry (ROE) will be required prior to the Contractor performing any of its work within 50 feet of the nearest rail. Information and ROE application can be obtained by contacting:

Denise Case

Jones Lang LaSalle Americas, Inc.

(817) 230-2614 – Office

Denise.case@am.jll.com

David Miller

Jones Lang LaSalle Americas, Inc.

(817) 554-5057 - Office

David.Miller@jll.comhttps://jllrpg.360works.com/fmi/webd/rpo_web_kcs.fmp12

2. Whenever the Contractor or its personnel or equipment are within fifty feet (50') on either side of the centerline of track, their activities shall be attended by an approved railroad flagman. Work within the KSC ROW shall be performed as required by the KSC permit.

SC-7.11B. “City obtained permits and licenses”

The following are known permits and/or licenses required by the Contract to be acquired by the City:

1. Permit for FEMA CLOMR for 2 stream crossings
2. Permit for USACE for project 2 stream crossings
3. Permit for KCS Railroad Street Crossing
4. Permit for KCS Railroad Sanitary Sewer Crossing and grading on Tributary stream

SC-7.11C. “Outstanding permits and licenses”

The following is a list of known outstanding permits and/or licenses to be acquired, if any as of April 10, 2023:

Outstanding Permits and/or Licenses to Be Acquired

OWNER	PERMIT OR LICENSE AND LOCATION	TARGET DATE OF POSSESSION
None		

SC-7.24B., "Title VI, Civil Rights Act of 1964 as amended"

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. **Compliance with Regulations:** The Contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive proposals or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by City or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the City, or the Texas Department of Transportation, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, City shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the Contractor under the Contract until the Contractor complies, and/or
 - b. cancellation, termination or suspension of the Contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as City or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request City to enter into

such litigation to protect the interests of City, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Additional Title VI requirements can be found in the Appendix.

SC-8.02., “Coordination”

The individuals or entities listed below have contracts with the City for the performance of other work at the Site:

Vendor	Scope of Work	Coordination Authority
<i>ENLINK GAS and/or their assigns</i>	<i>Lowering & relocation of gas lines</i>	<i>Justin Bolles</i>
<i>KCS Railroad</i>	<i>Widening tracks at crossing</i>	<i>Chris Ashley</i>

SC-9.01, “Communications to Contractor”

None

SC-10.01B., “City’s Project Manager”

The City’s Project Manager for this Contract is Robin Davis, or her successor pursuant to **written notification from the City Engineer.**

SC-13.02B., “Tests and Inspections”

None

SC-14.01G, “Reduction in Payment”

Add Paragraph 14.01G.3:

3. *City may reduce payments to the Contractor, if the number of Days that have passed after the date listed on the Notice to Proceed exceeds the Contract Time for Substantial Completion.*

SC-16.01C.1, “Methods and Procedures”

None

SC – 17.01, “Documents”

Any documents submitted to the City in electronic format shall be considered equivalent to an original of such document.

END OF SECTION

1
2**SECTION 00 35 14**
CONFLICT OF INTEREST AFFIDAVIT - CSP**CONFLICT OF INTEREST QUESTIONNAIRE -****FORM CIQ****For vendor or other person doing business with local governmental entity****This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 Name of vendor who has a business relationship with local governmental entity. Sundt Construction, Inc.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information in this section is being disclosed.

Name of Officer

This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐ Yes ☐ No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4 ☒ I have no Conflict of Interest to disclose.

5



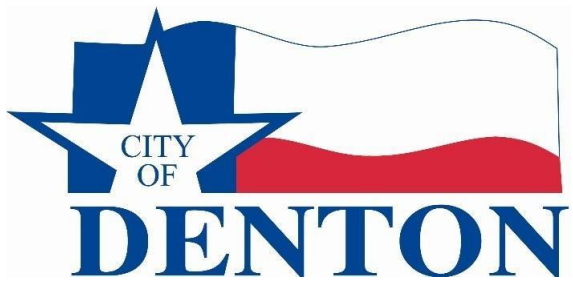
5.24.2023

Signature of vendor doing business with the governmental entity

Date

3

END OF SECTION



DocuSign Transmittal Coversheet

File Name	8094 Bonnie Brae 3 Widening CO#1
Purchasing Contact	Cori Power
Contract Expiration	N/A

CITY OF DENTON CHANGE ORDER FORM



City of Denton - Capital Projects
401 N. Elm Street
Denton, TX 76201
Robin Davis, Project Manager

Contractor: Sundt Construction, Inc.
8445 Freeport Pkwy Suite 240
Irving, TX 75063
Chris Bailey

Proj: **Bonnie Brae Phase 3 Widening & Reconstruction**

CHANGE ORDER NO. **1**

IFB# **8094-1**

ENG/PMO# **880006-3**

PO# **205669**

Notice To Proceed Issued:
10/16/2023

Current Completion Date:
4/15/2026

New Completion Date:
4/15/2026

Contract BID Amount:	\$ 38,398,900.45	Prior Approved Other Funded CO's:	\$ -
5% Contingency Amount:	\$ 1,919,945.02	Current Contract Amount w CO's:	\$ 38,398,900.45
Total NTE Amount :	\$ 40,318,845.47	This CO Other Funding Request:	\$ -
Prior Approved CAA's:	\$ -	Total Change Request:	\$ 44,157.00
Available Contingency:	\$ 1,919,945.02		
This CAA Request:	\$ 44,157.00	Orig Contract Days:	912
Contingency Remaining:	\$ 1,875,788.02	Approved CO Days:	0
		This CO Days Request:	0
		New Contract Days:	912

PROJECT SCOPE AND REASON FOR CHANGE

Description of work
included in Contract:

Widen and reconstruct Bonnie Brae Phase 3 from FM1515/Airport Road to Roselawn Drive from a 2-lane rural roadway to a 4-lane divided urban street section. Includes drainage, water & wastewater improvements.

Reason for Change:

Corrections to quantities vetted through the submittal process
Removal of Contraflow Equipment

CONTINGENCY USE ALLOWANCE (CUA) CONTRACT CHANGES

QUANTITY CHANGES TO EXISTING ITEMS

Item No.	Spec. Section No.	Description of work	UOM	BID QTY	+/- QTY	Unit Price	Extended Price
109	33 14 17	WATER SERVICE	EA	11	9	\$ 5,400.00	\$ 48,600.00
139	33 05 07	36" STEEL CASING BY BORE (5/8" THICK)	LF	110	100	\$ 3,200.00	\$ 320,000.00
136	33 05 62	5' DIA. MANHOLE OVER EXIST. SEWER LINE (P	EA	2	-1	\$ 26,000.00	\$ (26,000.00)
137	33 05 62	5' DIA. DROP MANHOLE (PRE-CAST)	EA	2	1	\$ 30,000.00	\$ 30,000.00
89	02 41 14	REMOVE EXISTING SET's/HEADWALLS	EA	5	8	\$ 2,500.00	\$ 20,000.00
79	33 42 23	Connect RCP to Headwall	EA	3	-3	\$ 2,500.00	\$ (7,500.00)
154	34 41 50	ALUM SIGNS 18" X 18" LANE USE	EA	14	-14	\$ 372.00	\$ (5,208.00)
162	26 05 19	TRAF SIG CABLES 5C #14 AWG	LF	2494	-2494	\$ 2.50	\$ (6,235.00)
164	34 41 21	STEEL POLE STR ASSEMBLY 34' TY D	EA	8	-8	\$ 14,000.00	\$ (112,000.00)
191	34 41 10	LANE USE SIGNAL 16" X 16" 2 IND	EA	5	-5	\$ 6,500.00	\$ (32,500.00)
192	34 41 10	LANE USE SIGNAL 16" X 16" 3 IND	EA	17	-17	\$ 7,900.00	\$ (134,300.00)
193	34 41 10	LANE USE SIGNAL 30" X 30" 1 IND	EA	5	-5	\$ 6,700.00	\$ (33,500.00)
194	34 41 10	LANE USE SIGNAL 30" X 30" 2 IND	EA	4	-4	\$ 4,300.00	\$ (17,200.00)

TOTAL CUA QTY CHANGES: **\$44,157.00**

NEW ITEMS OF WORK - N/A

Contingency funds are used at City's discretion per contract spec language

TOTAL CUA NEW ITEMS: **\$0.00**

OTHER FUNDED CONTRACT CHANGES (CO) - N/A

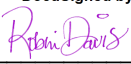
TOTAL CO AMOUNT: **\$44,157.00**

Bonnie Brae Phase 3
Widening & Reconstruction

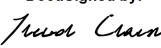
Original BID/Contract Amount:	\$ 38,398,900.45
Original Not To Exceed Amount:	\$ 40,318,845.47
Total CUA's:	\$ 44,157.00
Total CO's:	\$ -
Revised Contract Amount:	\$ 38,443,057.45
% of CUA Approved To-Date:	2.30%
Total Changes over Original Bid:	0.11%
Percent Changes over NTE:	0.11%

Signatory Lines will be updated by Purchasing if required

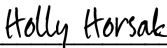
SUBMITTED BY:

DocuSigned by:

1786671EDEC943C
Robin Davis, Project Manager

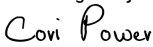
ACCEPTED BY CITY ENGINEER/DIRECTOR OF CAPITAL PROJECTS

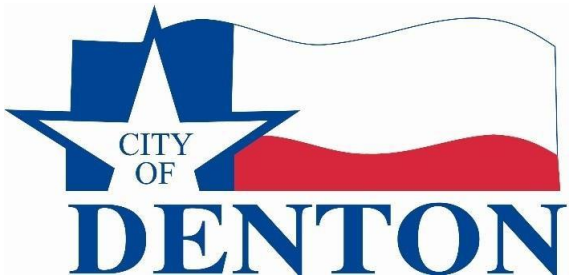
DocuSigned by:

7B46EEFAB11BC4F2
Trevor Crain, Director of Capital Projects

ACCEPTED BY CONTRACTOR: Holly Horsak Sr. Project Manager
Name, Title

DocuSigned by:

5305226A98C24FF...
Signature

PURCHASING:

DocuSigned by:

6F1EE1663F7B4FE...
Signature 6/17/2024



DocuSign Transmittal Coversheet

File Name	8094-1 BB Phase 3 Change Order 2
Purchasing Contact	Erica Garcia

CITY OF DENTON CHANGE ORDER FORM



City of Denton - Capital Projects
401 N. Elm Street
Denton, TX 76201
Robin Davis, Project Manager

Contractor: Sundt Construction, Inc.
8445 Freeport Pkwy Suite 240
Irving, TX 75063
Chris Bailey

Proj: **Bonnie Brae Phase 3 Widening & Reconstruction**

CHANGE ORDER NO. **2**

IFB# **8094-1**

ENG/PMO# **880006-3**

PO# **205669**

Notice To Proceed Issued:

10/16/2023

Current Completion Date:

4/15/2026

New Completion Date:

4/15/2026

Contract BID Amount:	\$ 38,398,900.45	Prior Approved Other Funded CO's:	\$ -
5% Contingency Amount:	\$ 1,919,945.02	Current Contract Amount:	\$ 38,443,057.45
Total NTE Amount :	\$ 40,318,845.47	This CO Other Funding Request:	\$ -
Prior Approved CUA's:	\$ 44,157.00	Total Change Request:	\$ 365,742.00
Available Contingency:	\$ 1,875,788.02		
This CUA Request:	\$365,742.00	Orig Contract Days:	912
Contingency Remaining:	\$ 1,510,046.02	Approved CO Days:	0
		This CO Days Request:	0
		New Contract Days:	912

PROJECT SCOPE AND REASON FOR CHANGE

Description of work
included in Contract:

Widen and reconstruct Bonnie Brae Phase 3 from FM1515/Airport Road to Roselawn Drive from a 2-lane rural roadway to a 4-lane divided urban street section. Includes drainage, water & wastewater improvements.

Reason for Change:

Quantities required not included in project plans
Removal of Contraflow Equipment missed in CO#1
Field changes due to utility conflicts including changing location of bore under KSC RR
Additional items & work requested by Water Utilities to tie-in to new work at I-35 widening + 11 days

CONTINGENCY USE ALLOWANCE (CUA) CONTRACT CHANGES

QUANTITY CHANGES TO EXISTING ITEMS

Item No.	Spec. Section No.	Description of work	UOM	BID QTY	+/- QTY	Unit Price	Extended Price
5	32 93 00	TOPSOIL NATIVE	SY	28566	600	\$ 3.25	\$ 1,950.00
6	32 93 00	BLOCK SODDING	SY	17718	600	\$ 6.50	\$ 3,900.00
10	02 41 15	REMOVE EXISTING CONCRETE PAVING	SY	5759	44	\$ 20.00	\$ 880.00
148	34 41 24	DRILL SHAFT 36 IN (TY A OR TY B)	LF	136	-122	\$ 600.00	\$ (73,200.00)
150	26 05 33	CONDUIT 2" PVC	LF	689	-94	\$ 25.50	\$ (2,397.00)
151	26 05 33	CONDUIT 3" PVC	LF	2451	-2110	\$ 28.50	\$ (60,135.00)
152	26 05 33	CONDUIT 4" PVC	LF	1126	-818	\$ 31.50	\$ (25,767.00)
153	26 05 19	ELEC CONDR #4 POWER	LF	1050	-231	\$ 3.60	\$ (831.60)
154	26 05 19	ELEC CONDR #6 POW 86	LF	86	-34	\$ 2.55	\$ (86.70)
155	26 05 35	GROUND BOXES TY CBX	EA	18	-6	\$ 2,200.00	\$ (13,200.00)
156	26 05 00	ELEC SERVICE	EA	3	-1	\$ 9,000.00	\$ (9,000.00)
158	34 41 21	INST HWY TRAF SIG	EA	3	-1	\$ 22,000.00	\$ (22,000.00)
163	26 05 19	TRAF SIG CABLES 21C #14 AWG	LF	7253	-6356	\$ 7.50	\$ (47,670.00)
166	26 05 19	TRAF SIG CABLES 3C #16 CCTV	LF	246	-56	\$ 3.50	\$ (196.00)
177	34 41 27	CONTROLLER, CABINET, BASE, & FDN	EA	3	-1	\$ 27,500.00	\$ (27,500.00)
124	33 05 05	TRENCH SAFETY (DEPTH 0-10 FT)	LF	3131	-3	\$ 6.00	\$ (18.00)
133	33 31 14	24" SDR 26 SEWER LINE	LF	4200	-3	\$ 405.00	\$ (1,215.00)
135	33 31 16	4" SEWER SERVICE	EA	9	3	\$ 8,400.00	\$ 25,200.00
142	33 05 07	36" STEEL CASING BY BORE (5/8" THICK)	LF	110	95	\$ 3,200.00	\$ 304,000.00
145	33 05 62	5' EXTRA DEPTH MANHOLE	VF	194	-11	\$ 660.00	\$ (7,260.00)

TOTAL CUA EXISTING ITEMS:

\$45,453.70

NEW ITEMS OF WORK

326	32 01 29	High Early Strength Concrete Main Stad Dr.	SY	0	76	\$ 15.93	\$ 1,210.68
327	33 05 62	SS MH Install Temp By-Pass STA 170+32.15	LS	0	1	\$ 24,534.22	\$ 24,534.22
328	33 14 146	Added Bends to avoid exist Water MH (Line E	LS	0	1	\$ 12,568.07	\$ 12,568.07

329		Costs related utility conflict delays	LS	0	1	\$ 78,750.00	\$ 78,750.00
330	33 31 16	SS connection for house not shown on plans	LS	0	1	\$ 13,061.85	\$ 13,061.85
331	02 41 14	Rmv conc. headwall for install of SS Line A STA 203+60	LS	0	1	\$ 19,607.89	\$ 19,607.89
332	32 17 23	4" WH Parking Lot Stripe	LF	0	267	\$ 1.53	\$ 408.51
333	32 17 23	4" Yell Parking Lot Stripe CH	EA	0	2	\$ 202.32	\$ 404.64
334	32 17 23	Handicap Parking Symbol BLU	EA	0	4	\$ 176.41	\$ 705.64
335	32 17 23	6" RD FIRE LANE Parking Lot Stripe	LF	0	600	\$ 1.59	\$ 954.00
336	33 14 10	16" Ductile Iron Pipe, fittings & connections	LS	0	1	\$ 168,082.80	\$ 168,082.80
Contingency funds are used at City's discretion per contract spec language						TOTAL CUA NEW ITEMS:	\$320,288.30
OTHER FUNDED CONTRACT CHANGES (CO) - N/A							
TOTAL CHANGE AMOUNT:							\$365,742.00
Bonnie Brae Phase 3 Widening & Reconstruction Original BID/Contract Amount: \$ 38,398,900.45 Original Not To Exceed Amount: \$ 40,318,845.47 Total CUA's: \$ 409,899.00 Total CO's: \$ - Revised Contract Amount: \$ 38,808,799.45 % of CUA Approved To-Date: 21.35% Total Changes over Original Bid: 1.07% Percent Changes over NTE: 1.02%							

THE AFOREMENTIONED CHANGE, AND WORK AFFECTED THEREBY,
IS SUBJECT TO ALL CONTRACT STIPULATIONS AND COVENANTS.

SUBMITTED BY:

ACCEPTED BY CITY ENGINEER/DIRECTOR OF CAPITAL PROJECTS

ACCEPTED BY CONTRACTOR: Holly Horsak Sr. Project Manager

PURCHASING:

Signed by:

Robin Davis

1786071FDDE947C...

Robin Davis, Project Manager

Signed by:

Trevor Crain

7B46EEAB11BC4F2...

Trevor Crain, Director of Capital Projects

DocuSigned by:

Holly Horsak

B20E226A98C24FE...

Signature

DocuSigned by:

Erica Garcia

CE56114ADB9747A...

Signature

ORDINANCE NO. 25-640

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDER NO. 3 TO THE CONTRACT BETWEEN THE CITY OF DENTON AND SUNDT CONSTRUCTION, INC., FOR THE BONNIE BRAE PHASE 3 WIDENING AND RECONSTRUCTION PROJECT FOR THE CAPITAL PROJECTS DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (CSP 8094-1 – CHANGE ORDER NO. 3 IN THE NOT-TO-EXCEED AMOUNT OF \$2,388,362.16, FOR A TOTAL CONTRACT AWARD AGGREGATED TO \$42,707,207.63).

WHEREAS, on August 15, 2023, by Ordinance No. 23-1524, the City Council awarded a contract to Sundt Construction, Inc., in the amount of \$40,318,845.47, for the Bonnie Brae Phase 3 Widening and Reconstruction Project for the Capital Projects Department; and

WHEREAS, on June 17, 2024, Purchasing awarded a Change Order No. 1 between the City of Denton and Sundt Construction, Inc., in the amount of \$44,157.00; and

WHEREAS, on December 9, 2024, Purchasing awarded a Change Order No. 2 between the City of Denton and Sundt Construction, Inc., in the amount of \$365,742.00; and

WHEREAS, this procurement was undertaken as part of the City's governmental function; and

WHEREAS, the Staff having recommended, and the City Manager having recommended to the Council that a change order be authorized to amend such contract agreement with respect to the scope of work and an increase in the payment amount; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

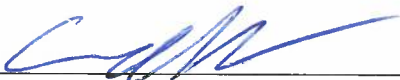
SECTION 1. Change Order No. 3, increasing the amount of the contract between the City and Sundt Construction, Inc., which is on file in the office of the Purchasing Agent, in the amount of Two Million Three Hundred Eighty-Eight Thousand Three Hundred Sixty-Two and 16/100 (\$2,388,362.16) dollars, is hereby approved and the expenditure of funds therefore is hereby authorized in accordance with said change order. The total purchase order amount increases to 42,707,207.63.

SECTION 2. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by Jill Jester and seconded by Joe Holland. This ordinance was passed and approved by the following vote [7 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Vicki Byrd, District 1:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Brian Beck, District 2:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Paul Meltzer, District 3:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Joe Holland, District 4:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Brandon Chase McGee, At Large Place 5:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Jill Jester, At Large Place 6:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

PASSED AND APPROVED this the 15th day of April, 2025.


GERARD HUDSPETH, MAYOR

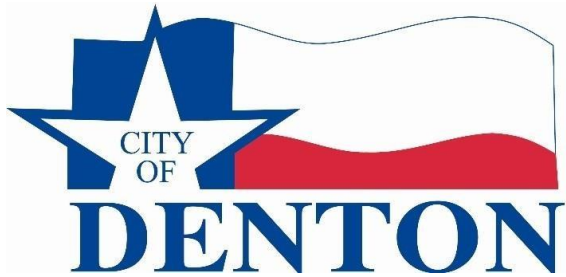
ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: 





Docusign City Council Transmittal Coversheet

RFP	8094-1
File Name	Bonnie Brae Phase 3 CO#3
Purchasing Contact	Cori Power
City Council Target Date	APRIL 15, 2025
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	25-640

Contractor: Sundt Construction, Inc.
8445 Freeport Pkwy Suite 240
Irving, TX 75063
Holly Horsak

3

205669

New Completion Date:
11/11/2026

Approved CO Days: 0 New Contract Days: 1122

Costs related to the delay of the Enlink gas line relocation and abandonment of the existing line in the path of the future alignment of Bonnie Brae between Parvin and Roselawn. The City began negotiating with Enlink in 2020. Terms were not agreed upon until after Sundt was issued a Notice To Proceed. Enlink completed their relocation and abandonment efforts on October 28, 2024. The decision to move forward with bidding and NTP for construction of the roadway was based on the city's need to meet TxDOT's I-35 Merge project schedule. Total delay was 377 days from the 10.16.2023 NTP.

QUANTITY CHANGES TO EXISTING ITEMS

TOTAL CUA EXISTING ITEMS:	\$287,320.00
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TOTAL CUA NEW ITEMS:	\$713,417.95
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TOTAL NON CONTINGENCY FUNDED NEW ITEMS:	\$2,388,362.16
--	-----------------------

\$3,389,100.11

Percent Changes over NTE: 5.92%

Signatory Lines will be updated by Purchasing if required

THE AFOREMENTIONED CHANGE, AND WORK AFFECTED THEREBY,
IS SUBJECT TO ALL CONTRACT STIPULATIONS AND COVENANTS.

SUBMITTED BY:

Signed by:

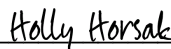
Robin Davis, Project Manager

ACCEPTED BY CITY ENGINEER/DIRECTOR OF CAPITAL PROJECTS

Signed by:

Seth Garcia, Interim Director of Capital Projects

ACCEPTED BY CONTRACTOR: Holly Horsak Sr. Project Manager
Name, Title

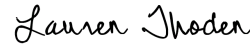
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Signature

CITY MANAGER:

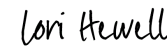
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Signature

ATTEST: CITY SECRETERY

DocuSigned by:

Signature

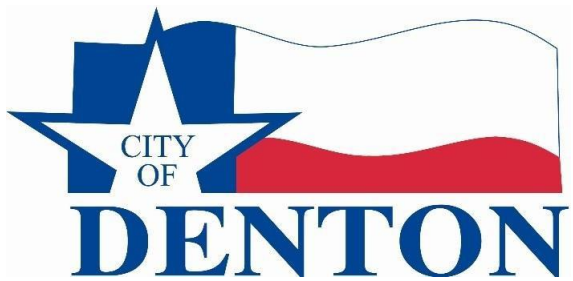
PURCHASING:

DocuSigned by:

Signature

APPROVED AS TO LEGAL FORM:

DocuSigned by:

Signature



DocuSign Transmittal Coversheet

File Name	8094-1 - Bonnie Brae Phase 3 Widening & Reconstruction CO#4
Purchasing Contact	Cori Power

CITY OF DENTON CHANGE ORDER FORM							
		City of Denton - Capital Projects		Contractor: Sundt Construction, Inc.			
		401 N. Elm Street Denton, TX 76201 Robin Davis, Project Manager		8445 Freeport Pkwy Suite 240 Irving, TX 75063 Holly Horsak			
Proj: Bonnie Brae Phase 3 Widening & Reconstruction IFB# <u>8094-1</u>				CHANGE ORDER NO. 4 PO# <u>205669</u>			
Notice To Proceed Issued:		Current Completion Date:		New Completion Date:			
10/16/2023		11/11/2026		11/11/2026			
Contract BID Amount: \$		38,398,900.45		Prior Approved Other Funded CO's: \$		2,388,362.16	
5% Contingency Amount: \$		1,919,945.02		Current Contract Amount: \$		42,197,899.56	
Total NTE Amount: \$		40,318,845.47		This CO Other Funding Request: \$		-	
Prior Approved CUA's: \$		1,410,636.95		Total Change Request: \$		359,778.62	
Available Contingency: \$		509,308.07					
This CUA Request: \$		359,778.62		Orig Contract Days: 912		This CO Days Request: 0	
Contingency Remaining: \$		149,529.45		Approved CO Days: 210		New Contract Days: 1122	
PROJECT SCOPE AND REASON FOR CHANGE							
Description of work included in Contract:		Widen and reconstruct Bonnie Brae Phase 3 from FM1515/Airport Road to Roselawn Drive from a 2-lane rural roadway to a 4-lane divided urban street section. Includes drainage, water & wastewater improvements.					
Reason for Change:		Water Utility requested changes and costs related to quantity over & under runs as well as items or work performed under time and material due to field conditions differing from plans					
CONTINGENCY USE ALLOWANCE (CUA) CONTRACT CHANGES							
QUANTITY CHANGES TO EXISTING ITEMS							
Item No.	Spec. Section No.	Description of work	UOM	BID QTY	+/- QTY	Unit Price	Extended Price
10	02 41 15	REMOVE EXISTING CONCRETE PAVING	SY	5759	252	\$ 20.00	\$ 5,040.00
14	32 11 29	12" LIME SLURRY (54LBS/SY)	TON	1975.90	9	\$ 325.00	\$ 3,055.00
15	32 11 29	12" LIME TREATED SUBGRADE	SY	73180	368	\$ 5.00	\$ 1,840.00
19	32 13 13	CONCRETE PAVEMENT 10-INCH	SY	2825	348	\$ 115.00	\$ 40,020.00
27	32 16 00	MONOLITHIC CURB	LF	29790	180	\$ 7.50	\$ 1,350.00
28	32 16 00	5-FOOT SIDEWALK 4-INCH	SY	3119	-30	\$ 105.00	\$ (3,150.00)
30	32 16 00	CURB RAMPS TYPE I	EA	4	2	\$ 4,250.00	\$ 8,500.00
57	33 42 11	36" RCP (CL III)	LF	526	40	\$ 260.00	\$ 10,400.00
61A	33 01 30	Post CCTV Inspecton	LF	9775	491.31	\$ 4.00	\$ 1,965.24
64	33 42 11	9' X 7' RCB	LF	106	10	\$ 1,200.00	\$ 12,000.00
89	02 41 14	Remove Existing Headwall	EA	5	1	\$ 2,500.00	\$ 2,500.00
90	02 41 14	Remove Existing Storm Pipe	LF	1598	40	\$ 45.00	\$ 1,800.00
104	33 14 30	2" AIR RELEASE VALVE	EA	4	1	\$ 18,000.00	\$ 18,000.00
105	33 14 25	CONNECTION TO EXISTING WATER LINE WITH MAIN	EA	8	3	\$ 5,000.00	\$ 15,000.00
107	33 14 20	8" GATE VALVE	EA	1	1	\$ 4,200.00	\$ 4,200.00
109	33 14 17	WATER SERVICE	EA	11	3	\$ 5,400.00	\$ 16,200.00
111	33 14 20	8" X 8" TAPPING SLEEVE & VALVE (City Furn. & Instl)	EA	1	-1	\$ 6,000.00	\$ (6,000.00)
113	33 14 17	RELOCATE WATER METER	EA	20	3	\$ 600.00	\$ 1,800.00
116	02 41 14	REMOVE & SALVAGE EXISTING FIRE HYDRANT	EA	3	2	\$ 1,200.00	\$ 2,400.00
132	33 31 16	4" SEWER SERVICE	EA	9	5	\$ 8,400.00	\$ 42,000.00
232	32 17 23	TYPE IB DOUBLE LINE	LF	3126	255	\$ 2.60	\$ 663.00
233	32 17 23	TYPE IB EDGELINE	LF	493	2718	\$ 1.25	\$ 3,397.50
234	32 17 23	TYPE IIIA BARRIER LINE	LF	2627	366	\$ 3.20	\$ 1,171.20
235	32 17 23	TYPE IA BROKEN LINE *	LF	2980	860	\$ 1.35	\$ 1,161.00
236	32 17 23	TYPE VA STOP BAR	LF	488	-8	\$ 12.00	\$ (96.00)
237	32 17 23	TYPE IA BROKEN LINE C/R RPM	EA	287	83	\$ 5.00	\$ 415.00
238	32 17 23	TYPE IIIA BARRIER LINE C/R RPM	EA	197	65	\$ 5.00	\$ 325.00
239	32 17 23	TYPE IB DOUBLE LINE A/A RPM	EA	164	23	\$ 5.00	\$ 115.00
240	32 17 23	YIELD LINE	EA	40	8	\$ 50.00	\$ 400.00
242	32 17 23	TYPE IA EDGELINE	LF	663	-3	\$ 1.25	\$ (3.75)
262	34 41 50	SMALL SIGN ASSEMBLY	EA	96	2	\$ 675.00	\$ 1,350.00

TOTAL CUA EXISTING ITEMS:							\$187,818.19
NEW ITEMS OF WORK							
349		Insertatees for Sanitary Sewer	LS	0.00	1	\$ 1,794.16	\$ 1,794.16
350		Relocate Water Flush Point	LS	0.00	1	\$ 4,379.03	\$ 4,379.03
351		TXDOT MNTC YARD FENCE	LS	0.00	1	\$ 17,825.00	\$ 17,825.00
352		SS Line MH Grade Adjustment	LS	0.00	1	\$ 3,450.00	\$ 3,450.00
353		6-IN SS Connections UNT Facilities	LS	0.00	1	\$ 107,154.68	\$ 107,154.68
354		T&M (Utility work to date not shown in plans)	LS	0.00	1	\$ 37,357.56	\$ 37,357.56
Contingency funds are used at City's discretion per contract spec language							
TOTAL CUA NEW ITEMS:							\$171,960.43
OTHER FUNDED CONTRACT CHANGES (CO)							
		N/A					\$ -
TOTAL NON CONTINGENCY FUNDED NEW ITEMS:							\$0.00
TOTAL CHANGE AMOUNT:							\$359,778.62
Bonnie Brae Phase 3 Widening & Reconstruction				Original BID/Contract Amount: \$ 38,398,900.45			
				Original Not To Exceed Amount: \$ 40,318,845.47			
				Total CUA's: \$ 1,770,415.57			
				Total CO's: \$ 2,388,362.16			
				Revised Contract Amount: \$ 42,557,678.18			
				% of CUA Approved To-Date: 92.21%			
				Total Changes over Original Bid: 10.83%			
				Percent Changes over NTE: 5.55%			

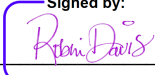
THE AFOREMENTIONED CHANGE, AND WORK AFFECTED THEREBY,
IS SUBJECT TO ALL CONTRACT STIPULATIONS AND COVENANTS.

SUBMITTED BY:

ACCEPTED BY CITY ENGINEER/DIRECTOR OF CAPITAL PROJECTS

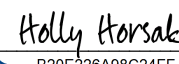
ACCEPTED BY CONTRACTOR:

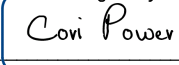
PURCHASING:

Signed by:

Robin Davis, Project Manager

Signed by:

Seth Garcia, Director of Capital Projects

DocuSigned by:

Holly Horsak
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Signature

DocuSigned by:

Coni Power 10/24/2025
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Signature

Holly Horsak Sr. Project Manager

Name, Title